

1	<b>ARTICLE V: DEVELOPMENT STANDARDS .....</b>	<b>V-4</b>
2	<b>78-500 OFF STREET PARKING AND LOADING .....</b>	<b>V-4</b>
3	(A)    APPLICABILITY .....	V-4
4	(B)    DETERMINATION BY ZONING ADMINISTRATOR .....	V-5
5	(C)    OFF-STREET PARKING STANDARDS .....	V-5
6	(D)    LOADING SPACE STANDARDS .....	V-19
7	<b>78-501 CIRCULATION AND TRAFFIC.....</b>	<b>V-20</b>
8	(A)    APPLICABILITY .....	V-20
9	(B)    TRAFFIC IMPACT STUDIES .....	V-20
10	(C)    CIRCULATION STANDARDS .....	V-21
11	<b>78-502 PROTECTION OF TREES AND VEGETATION ON PRIVATE PROPERTY AND DURING</b>	
12	<b>DEVELOPMENT .....</b>	<b>V-22</b>
13	(A)    PURPOSE .....	V-22
14	(B)    APPLICABILITY .....	V-22
15	(C)    TREE AND VEGETATION PROTECTION AND REPLACEMENT ON PRIVATE PROPERTY .....	V-23
16	(D)    TREE PROTECTION DURING CONSTRUCTION.....	V-24
17	(E)    TREE PRESERVATION CREDIT.....	V-25
18	(F)    ADMINISTRATIVE ADJUSTMENTS FROM REQUIRED SETBACKS.....	V-25
19	(G)    REDUCTION IN THE MINIMUM NUMBER OF REQUIRED PARKING SPACES.....	V-25
20	(H)    MONITORING AND MAINTENANCE .....	V-26
21	<b>78-503 SITE LANDSCAPING .....</b>	<b>V-27</b>
22	(A)    PURPOSE .....	V-27
23	(B)    APPLICABILITY .....	V-27
24	(C)    GENERAL REQUIREMENTS.....	V-27
25	(D)    BUFFER STRIP REQUIRED INSIDE ENTIRE PERIMETER OF PARCELS.....	V-28
26	(E)    VEHICULAR USE AREAS .....	V-31
27	(F)    LANDSCAPING FOR SITE AREAS NOT OTHERWISE CONTAINED IN PERIMETER BUFFERS AND	
28	VEHICULAR USE AREAS .....	V-33
29	(G)    ADDITIONAL SCREENING REQUIREMENTS FOR CERTAIN FEATURES .....	V-34
30	(H)    PERMITTED CHANGES IN LANDSCAPING PLANT MATERIALS.....	V-35
31	(I)    OTHER LANDSCAPE STANDARDS .....	V-36
32	<b>78-504 OPEN SPACE V-38</b>	
33	(A)    APPLICABILITY .....	V-38
34	(B)    GENERAL STANDARDS .....	V-38
35	(C)    OWNERSHIP AND MAINTENANCE .....	V-40
36	<b>78-505 GREEN STREETS .....</b>	<b>V-41</b>
37	(A)    APPLICABILITY .....	V-41
38	(B)    STANDARDS .....	V-41
39	<b>78-506 PRIVATELY PROVIDED RECREATION AREAS .....</b>	<b>V-41</b>
40	(A)    APPLICABILITY .....	V-41
41	(B)    STANDARDS .....	V-41
42	<b>78-507 COMMON AREAS .....</b>	<b>V-42</b>
43	(A)    GENERAL .....	V-42
44	(B)    ARRANGEMENTS.....	V-43
45	(C)    MAINTENANCE .....	V-43
46	<b>78-508 SIGNSV-43</b>	
47	(A)    PURPOSE .....	V-43

1	(B)	APPLICABILITY .....	V-44
2	(C)	GENERAL STANDARDS .....	V-44
3	(D)	SIGNS IN RESIDENTIAL ZONING DISTRICTS AND FOR RESIDENTIAL USES IN NON-RESIDENTIAL OR PLANNED DEVELOPMENT <del>MIXED-USE</del> DISTRICTS.....	V-47
5	(E)	SIGNS IN THE COMMERCIAL SERVICE, COMMERCIAL OFFICE, PLANNED DEVELOPMENT – BUSINESS, OFFICE AND LIGHT INDUSTRIAL, AND PLANNED DEVELOPMENT – WORLDGATE ZONING DISTRICTS .....	V-48
8	(F)	SIGNS IN THE CENTRAL COMMERCIAL AND PLANNED DEVELOPMENT - DOWNTOWN ZONING DISTRICTS .....	V-50
10	(G)	MASTER SIGN PLAN .....	V-52
11	(H)	MASTER SIGN PLAN CONFORMANCE PERMIT .....	V-52
12	(I)	MODIFICATION FROM MASTER SIGN PLAN FOR INDIVIDUAL ESTABLISHMENT .....	V-52
13	(J)	TEMPORARY SIGNS.....	V-52
14		<b>78-509 VISIBILITY CLEARANCE.....</b>	<b>V-53</b>
15		<b>78-510 LANDMARK BUSINESS .....</b>	<b>V-53</b>
16	(A)	APPLICABILITY .....	V-53
17	(B)	INCREASE IN HEIGHT AND FLOOR AREA .....	V-54
18		<b>78-511 DOWNTOWN V-54</b>	
19	(A)	VILLAGE STREETS.....	V-54
20	(B)	HEIGHT .....	V-54
21	(C)	SETBACK.....	V-54
22	(D)	PEDESTRIAN TRAVEL .....	V-55
23	(E)	SOLID WASTE RECEPTACLES .....	V-55
24	(F)	TRANSITIONAL SITES .....	V-55
25		<b>78-512 DOWNTOWN TRANSITION AREAS .....</b>	<b>V-55</b>
26	(A)	APPLICABILITY .....	V-55
27	(B)	GENERAL STANDARDS .....	V-55
28		<b>78-513 SINGLE LOT DEVELOPMENT.....</b>	<b>V-56</b>
29	(A)	APPLICABILITY .....	V-56
30	(B)	STANDARDS .....	V-56
31		<b>78-514 DEVELOPMENT WITHIN THE HERITAGE PRESERVATION OVERLAY DISTRICT.....</b>	<b>V-57</b>
32	(A)	ALTERATION, RESTORATION OR RECONSTRUCTION .....	V-57
33	(B)	NEW CONSTRUCTION.....	V-58
34	(C)	MOVING OR RELOCATING A BUILDING .....	V-58
35	(D)	DEMOLITION .....	V-59
36		<b>78-515 PERFORMANCE STANDARDS.....</b>	<b>V-59</b>
37	(A)	GENERAL .....	V-59
38	(B)	RESIDENTIAL PROTECTION STANDARDS.....	V-59
39	(C)	NOISE .....	V-60
40	(D)	EARTHBOEN VIBRATION STANDARDS .....	V-62
41	(E)	SMOKE AND PARTICULATE MATTER STANDARDS .....	V-62
42	(F)	TOXIC MATTER STANDARDS .....	V-63
43	(G)	ODOROUS MATTER STANDARDS.....	V-63
44	(H)	FIRE AND EXPLOSIVE MATTER STANDARDS.....	V-64
45	(I)	EXTERIOR LIGHTING STANDARDS .....	V-65
46	(J)	ELECTRICAL INTERFERENCE STANDARDS.....	V-67
47	(K)	LIQUID AND SOLID WASTE STANDARDS.....	V-68
48		<b>78-516 STANDARDS FOR <del>REFUSE</del> COLLECTION AND SOLID WASTE RECEPTACLES AND SCREENING ENCLOSURES .....</b>	<b>V-68</b>

1	(A)	APPLICABILITY .....	V-68
2	(B)	STANDARDS FOR <del>REFUSE COLLECTION AND</del> SOLID WASTE RECEPTACLES AND SCREENING	
3		ENCLOSURES .....	V-68
4		<b>78-517 FENCING STANDARDS.....</b>	<b>V-69</b>
5	(A)	APPLICABILITY .....	V-69
6	(B)	GENERAL .....	V-70
7	(C)	PERIMETER FENCES FOR DEVELOPMENT IN THE RTC, RM AND PLANNED DEVELOPMENT	
8		<del>DISTRICTS VISIBLE FROM OR ABUTTING PUBLIC RIGHTS-OF-WAY .....</del>	<del>V-70</del>
9	(D)	HEIGHT OF FENCES AND WALLS .....	V-71
10	(E)	PROHIBITED FENCES.....	V-75

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**ARTICLE V: DEVELOPMENT STANDARDS**

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**78-500 OFF STREET PARKING AND LOADING****(A) Applicability**

To relieve traffic congestion in the streets, to minimize any detrimental effects of off-street parking areas on adjacent properties, and to ensure the proper and uniform development of parking areas throughout the Town, off-street parking and loading spaces for each use shall be provided in accordance with the standards established in this Section. The off-street parking and loading standards of this Section shall apply to development in every zoning district.

~~**(1) Residential Districts**~~~~(a) Off-street parking areas and off-street loading space appurtenant to any use permitted in residential districts shall be provided on the same parcel of land occupied by the use to which the area or space is appurtenant.~~~~(b) No person shall park any motor vehicle, vehicle, trailer, or semi-trailer on the front, or side yard of any lot, improved with a single family dwelling, zoned for residential use, except on a lawfully paved surface. For corner lots, the front yard for this purpose shall be the lot area bounded by streets, the side lot lines, and the dwelling facades that face the streets.~~~~(c) Except on any lot improved with a single family attached dwelling, no paved surface used for parking shall exceed 35 percent of the size of the front yard of the lot. See also Table 78-301(B)-Table of Dimensional Standards in the Residential Zoning Districts, Section 78-401(B)(4) Specific Standards for Residential Uses, Section 78-402 Accessory Uses and Structures, and Section 78-402(F)(2), Restricted in Residential Zoning Districts.~~**(1) Use of Stacking Area, Parking Area, or Loading Space**

All vehicular stacking areas, parking areas, and loading spaces required by this Section shall be used only for those purposes. Any other use, including but not limited to any repair work or service of any kind, shall constitute a separate commercial use of the space in violation of this Chapter. Repair and maintenance of the pavement itself is permitted as needed.

**(2) Expansions and Alterations**

(a) The off-street parking and loading standards of this Section shall apply when an existing structure or use is expanded, enlarged, or otherwise increased in capacity.

(b) When a proposed use requires more parking spaces than the use it is replacing, the owner, owner's agent, or condominium association shall provide the zoning administrator with a parking study providing a summary of all existing uses and their parking requirements, any vacant square footage and its anticipated parking requirements, and the proposed use and parking requirements and the number of conforming parking spaces.

(c) For structures and uses that are nonconforming, see Article VI, Nonconformities.

**(3) Change of Use**

Off-street parking and loading shall be provided for any change of use or manner of operation that would, based on the minimum standards established in this Section, result in a requirement for more parking or loading spaces than the existing use.

**(4) Responsibility for Provision**

The responsibility for providing the off-street parking and loading required by this Section shall be that of the owner of the land requiring parking and loading facilities. Review for compliance with the standards of this Section shall occur at the time of any application for Official Zoning Map Amendment subject to proffers, Special Exception, Site Plan, Preliminary Subdivision Preliminary Plan, Zoning Appropriateness Permit or Zoning Inspection Permit.

**(5) Approval**

Construction of any parking area shall require review and approval in accordance with the terms of this Chapter.

**(6) Construction of Off-street Parking and Loading Facilities**

All off-street parking and loading facilities shall be completed prior to the issuance of a Zoning Inspection Permit or a Zoning Appropriateness Permit for the use or uses they serve. In the case of phased development, off-street parking and loading need only be provided for the portions of the development for which a Zoning Inspection Permit or Zoning Appropriateness Permit is being issued.

**(B) Determination by Zoning Administrator**

Parking and loading standards for uses not specifically listed in Table 78-500(C)(1), *Minimum Off-Street Parking Standards*, or Table 78-500(D)(1), *Required Off-Street Loading Spaces*, shall be determined by the Zoning Administrator based on the standards for the closest comparable use or by reference to standard parking and loading resources published by the National Parking Association or the American Planning Association. The Zoning Administrator may alternately require for such uses not specifically listed the applicant submit a parking or loading demand study that justifies estimates of parking or loading demand based on the recommendations of the Institute of Traffic Engineers or other credible source, and includes relevant data collected from uses or combinations of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location.

**(C) Off-street Parking Standards**

**(1) Minimum Number of Spaces Required**

Unless otherwise expressly stated in this Section, off-street parking spaces shall be provided in accordance with Table 78-500(C)(1), *Minimum Off-street Parking Standards*, below:

TABLE 78-500(C)(1): MINIMUM OFF-STREET PARKING STANDARDS ("du" = dwelling unit; "sf" = square feet)		
USE CATEGORY	USE TYPE	REQUIRED NUMBER OF SPACES
	Single family detached dwelling	Greater of 2 per du or one per 1,000 square feet of <u>residential gross</u> floor area
	Duplex Dwelling	Greater of 2 per du or one per 1,000 square feet of gross floor area

**ARTICLE V: DEVELOPMENT STANDARDS**

Sec. 78-500 Off Street Parking and Loading  
Paragraph (C), Off-street Parking Standards

**TABLE 78-500(C)(1): MINIMUM OFF-STREET PARKING STANDARDS**

("du" = dwelling unit; "sf" = square feet)

USE CATEGORY	USE TYPE	REQUIRED NUMBER OF SPACES
<b>Residential</b>	Townhouse dwelling	2 per du, plus 0.75 per du for visitors, plus 0.25 per du for recreational vehicles
	Quadruplex	2 per du for each 1 bedroom du, 2.5 spaces for each unit with 2 or more bedrooms, plus 0.25 per du for recreational vehicles
	Multi-family dwelling	1.5 per du for each 1 bedroom du, 2 spaces for each unit with 2 or more bedrooms, plus 0.25 per du for recreational vehicles
	Housing for the elderly	1.5 per du for each du, plus .75 per du for visitors
	Assisted Living for the Elderly and Persons with Disabilities	1 per four beds, plus one space for each two employees, plus one space for each doctor assigned to the facility per shift.
	Group home	1 per four beds, plus one space for each two employees.
	<u>Bed and breakfast establishment</u>	<u>1 per guestroom, plus one space for each two employees living off-site.</u>
<b>Education</b>	Childcare Center, Daycare Center or Preschool	1 per employee, and one space per five children at maximum occupancy. As accessory uses, see Section 78-500(C)(2) Characteristics. See also Section 78-401(C)
	Post Secondary Education and Career Schools	1.5 per two students of design capacity
		1 per 15 students, except in the case of schools where students are permitted to drive and park at the school, there shall be one parking space per vehicle permitted to park.
	School, public or private (K-12)	
<b>Government Facilities</b>	Government buildings, facilities and uses not otherwise categorized	See Section 78-500(C)(2) Uses with Variable Parking Demand Characteristics.
<b>Institutional and Community Service Uses</b>	Cemetery	See Section 78-500(C)(2) Uses with Variable Parking Demand Characteristics.
	Community centers	1 per 50 square feet of floor area
	Convalescent home	1 per four beds, plus one space for each two employees, plus one space for each doctor assigned to the facility per shift.
	Hospital	1 per four beds, plus one space for each two employees, plus one space for each doctor assigned to the facility per shift.
	Library	1 per 500 square feet of floor area
	Museum, Fine Arts Center	1 per 500 square feet of floor area
	Religious institution, with or without any accessory schools, daycare centers, or recreational facilities	1 per four 4 worship spaces in the principal place of worship. Required parking spaces may be located on a parking lot which is accessory to another principal use which is not open or operating at the time worship services are conducted if this lot is located within 600 feet by the shortest route of

**ARTICLE V: DEVELOPMENT STANDARDS**

Sec. 78-500 Off Street Parking and Loading  
Paragraph (C), Off-street Parking Standards

<b>TABLE 78-500(C)(1): MINIMUM OFF-STREET PARKING STANDARDS</b> (“du” = dwelling unit; “sf” = square feet)		
<b>USE CATEGORY</b>	<b>USE TYPE</b>	<b>REQUIRED NUMBER OF SPACES</b>
		effective pedestrian access, from the religious institution.
	Senior center	1 per 50 square feet of floor area.
	Social service and similar community service uses	1 per 50 square feet of floor area.
<b>Eating Establishments</b>	Restaurant	1 per four seats, plus 1 per each two employees on duty during operating hours.
	Drive-In Restaurant [not drive-through window service]	1 per four indoor seats, plus 1 per each two employees on duty during operating hours. See also Section 78-500(C)(2) Uses with Variable Parking Demand Characteristics.
<b>Offices</b>	All office uses, excluding any medical or health related services (see "health care facility")	1 per 300 square feet of gross floor area Gross floor area calculations shall not include elevator shafts, structured parking or atrium space not designed for occupancy and not occupied.
<b>Indoor Entertainment</b>	Commercial recreation/ entertainment, indoor	1 per each three seats or other accommodations, and 1 space per each attendant, employee or participant.
<b>Outdoor Entertainment</b>	Commercial recreation/ entertainment, outdoor	1 per each three seats or other accommodations, and 1 space per each attendant, employee or participant.
	Private swimming pools	1 per each three persons included in the capacity for the facility, and 1 space per each attendant, employee or participant.
<b>Personal Services and Retail Sales</b>	Animal hospital, animal shelter, kennel, pet day care, veterinary clinic and similar uses.	1 per 400 square feet of floor area.
	Artist's studio or gallery	1 per 400 square feet of floor area.
	Dry-cleaning/laundry drop-off and pick-up without on-site cleaning, laundromats	1 per 250 square feet of floor area, but not less than 3 per establishment.
	Durable goods sales	1 per 400 square feet of floor area.
	Financial institution	1 per 300 square feet of floor area.
	Funeral home	1 per each five seats, provided that there shall be not less than 20 spaces for each chapel or parlor. One space for each employee, hearse, ambulance and other business-related vehicles shall be provided.
	Health Care Facility	1 per 300 square feet of floor area.
	Health care laboratory	1 per 300 square feet of gross floor area Gross floor area calculations shall not include elevator shafts, structured parking or atrium space not designed for occupancy

**ARTICLE V: DEVELOPMENT STANDARDS**

Sec. 78-500 Off Street Parking and Loading  
Paragraph (C), Off-street Parking Standards

**TABLE 78-500(C)(1): MINIMUM OFF-STREET PARKING STANDARDS**

("du" = dwelling unit; "sf" = square feet)

USE CATEGORY	USE TYPE	REQUIRED NUMBER OF SPACES
		and not occupied.
	Mailing and packing service	1 per 200 square feet of floor area.
	Personal services, general	1 per 200 square feet of floor area.
	Pharmacy	1 per 200 square feet of floor area.
	Product repair and services	1 per 200 square feet of floor area, but not less than 3 spaces per establishment.
	Retail sales	1 per 200 square feet of floor area.
	School of Special Instruction	1 per two students at peak hour capacity. See also Section 78-500(C)(2) Uses with Variable Parking Demand Characteristics.
	Other Personal Services and Retail Sales uses	1 per 200 square feet of floor area.
<b>Vehicle Sales and Services</b>	Vehicle rental and sales as a principal use	One customer and one employee parking space for each 1,200 square feet of display area.
	Vehicle repair; transmission and muffler shops, sales of vehicle parts and tires	3 for each repair bay for the servicing of vehicles, not including the repair bay, plus one parking space for each employee on duty.
	Vehicle full service wash and detailing	20 standing or parking spaces for waiting vehicles for each wash rack, plus one parking space for each two employees.
	Recreational vehicle rental and sales	One customer and one employee parking space for each 1,200 square feet of display area.
	Vehicle fuel sales with or without convenience store	See Section 78-500(C)(2) Uses with Variable Parking Demand Characteristics.
<b>Lodging Businesses</b>		1 per guestroom, plus one space for each two employees, plus such additional spaces as are required for affiliated uses such as restaurants and the like.
	Conference center	
	Hotel, motel or inn	1 per guestroom, plus one space for each two employees, plus such additional spaces as are required for affiliated uses such as restaurants and the like.
<b>Commercial Utilities</b>	Commercial communication tower, freestanding	1 per site.
	Electrical substation	1 per site.
	Telecommunication switching station	See Section 78-500(C)(2) Uses with Variable Parking Demand Characteristics.
	Utility-related maintenance and storage yards	See Section 78-500(C)(2) Uses with Variable Parking Demand Characteristics.
<b>Industrial Service</b>		
	Dry cleaning or laundry plants	1 per 250 square feet of floor area, but not less than three spaces for any one



**ARTICLE V: DEVELOPMENT STANDARDS**

Sec. 78-500 Off Street Parking and Loading  
Paragraph (C), Off-street Parking Standards

**TABLE 78-500(C)(1): MINIMUM OFF-STREET PARKING STANDARDS**

("du" = dwelling unit; "sf" = square feet)

USE CATEGORY	USE TYPE	REQUIRED NUMBER OF SPACES
		establishment.
	Scientific research and scientific development	1 per 300 square feet of gross floor area Gross floor area calculations shall not include elevator shafts, structured parking or atrium space not designed for occupancy and not occupied.
	All other industrial service uses	(1) For uses consisting of the manufacture, processing, assembly, or storage, the following spaces shall be assigned: one space for each 1,000 square feet of floor area, or one space for each two employees, whichever is greater. (2) Otherwise, 1 per 300 square feet of gross floor area Gross floor area calculations shall not include elevator shafts, structured parking or atrium space not designed for occupancy and not occupied.
<b>Light Manufacturing</b>	Light manufacturing uses	(1) For uses consisting of the manufacture, processing, assembly, or storage associated with retail uses, the following spaces shall be assigned: one space for each 1,000 square feet of floor area, or one space for each two employees, whichever is greater. (2) Otherwise, 1 per 300 square feet of gross floor area Gross floor area calculations shall not include elevator shafts, structured parking or atrium space not designed for occupancy and not occupied.
<b>Self-Service Storage</b>	Self-service storage uses	See Section 78-500(C)(2) Uses with Variable Parking Demand Characteristics.
<b>Transportation and Parking</b>	Bus maintenance facility for public bus service	one space for each 1,000 square feet of floor area, or one space for each two employees, whichever is greater.
	Parking Facility, commercial, permanent	See Section 78-500(C)(2) Uses with Variable Parking Demand Characteristics.
<b>Warehousing</b>	Electronic warehousing	1 per 6,000 square feet of floor area designated for such use.
	Warehouse (storage)	one space for each 1,000 square feet of floor area, or one space for each two employees, whichever is greater.
<b>Wholesale Sales</b>	Contractor's materials	one space for each 400 square feet of floor area, or one space for each two employees, whichever is greater.
	Wholesale establishment	one space for each 1,000 square feet of floor area, or one space for each two

**TABLE 78-500(C)(1): MINIMUM OFF-STREET PARKING STANDARDS**

("du" = dwelling unit; "sf" = square feet)

USE CATEGORY	USE TYPE	REQUIRED NUMBER OF SPACES
		employees, whichever is greater.

**(2) Uses with Variable Parking Demand Characteristics**

Uses that reference this section in Table 78-500(C)(1), *Minimum Off-street Parking Standards*, may have widely varying parking and loading demand characteristics, making it difficult to establish a single off-street parking or loading standard. Upon receiving a development application for a use subject to these standards, the Zoning Administrator shall apply the off-street parking and loading standard specified for the listed use that is deemed most similar to the proposed use or establish minimum off-street parking standards on the basis of a parking and loading study prepared by the applicant. Such a study shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates as approved by the Zoning Administrator, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study shall document the source of data used to develop the recommendations.

**(3) Mixed Uses**

Unless otherwise approved, lots containing more than one use shall provide parking spaces in an amount equal to the total of the requirements for all individual uses.

**(4) Maximum Number of Spaces Permitted**

For any use categorized as a Commercial or Service and Industrial use in Table 78-400, *Table of Principal Permitted and Allowed Uses*, off-street vehicle parking spaces shall not be provided in an amount that is more than 125 percent of the minimum requirements established in Table 78-500(C)(1), *Minimum Off-street Parking Standards*.

**(5) Accessible Parking Spaces for Persons with Disabilities**

When provided as a required accessibility improvement, accessible off-street parking spaces and related access aisles and accessible routes shall be in accordance with the provisions of the Virginia Uniform Statewide Building Code and the Town of Herndon Public Facilities Manual. The number of accessible parking spaces shall be included in the required number of parking spaces. Each such accessible parking space shall be designated as reserved for persons with disabilities by an above grade sign in conformance with the design and content specifications of the Public Facilities Manual.

For all uses except single family detached, duplexes, and townhouses, the number of accessible parking spaces for persons with disabilities shall be included in the required number of parking spaces specified in Table 78-500(C)(1), *Minimum Off-street Parking Standards*, and shall be provided in accordance with Table 78-500(C)(4), *Accessible Parking Spaces for Persons with Disabilities*.

TABLE 78-500(C)(4): ACCESSIBLE PARKING SPACES FOR PERSONS WITH DISABILITIES	
TOTAL NUMBER OF REQUIRED PARKING SPACES	NUMBER OF REQUIRED SPACES FOR PERSONS WITH DISABILITIES
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2 percent of total spaces.
Above 1,000	20 spaces, plus one space for each 100 over 1,000 spaces or fraction thereof.

**(6) Computation of Required Off-street Parking Spaces**

For the purpose of computing required off-street standing and parking or loading space in relation to floor area, the gross floor area shall be used. When application of the requirements would result in a fractional space, the fraction shall be counted as one space. If there is any uncertainty as to the amount of parking space required as a result of indefiniteness of the proposed use of the building or land, the maximum requirement for the general type of use that is involved shall govern.

~~**(7) Additional Off-street Parking Standards**~~

- ~~(a) For every land use, there shall be provided sufficient area for access by and for the off-street standing and parking of all motor vehicles that may be expected to come to the establishment at any time under normal conditions for any purpose, whether driven by patrons, customers, purveyors, guests, employees or otherwise.~~
- ~~(b) Every stacking and parking area (other than parking required for single-family detached, two-family, and townhouse dwellings) shall be provided with safe and convenient access to a street and shall be improved in accordance with the standards of this Section.~~
- ~~(c) The ground surface of parking and stacking areas shall be paved with a durable, dust free and hard material, such as bituminous hot mix or Portland cement, concrete, or some comparable material. Such paving shall be maintained for safe and convenient use at all times. See also Section 78-500(C)(11)(d), Standards for Alternative Materials.~~
- ~~(d) All parking spaces shall be delineated and periodically restored to maintain a clear identification of separate parking stalls.~~
- ~~(e) Screening and landscaping for off-street parking and vehicular stacking areas shall be provided as required in Section 78-503(E), Vehicular Use Areas.~~
- ~~(f) Exterior lighting for stacking areas and parking areas shall comply with the standards in Section 78-515(I), Exterior Lighting Standards.~~
- ~~(g) Parking of recreational vehicles for over 12 hours is prohibited within the commercial districts and service and industrial districts.~~

(7) **Parking in Residential Districts**

- (a) Off-street parking areas and off-street loading space appurtenant to any use permitted in residential districts shall be provided on the same parcel of land occupied by the use to which the area or space is appurtenant.
- (b) No person shall park any motor vehicle, vehicle, trailer, or semi-trailer on the front, side or rear yard of any lot, improved with a single family dwelling, zoned for residential use, except on a lawfully paved surface. For corner lots, the front yard for this purpose shall be the lot area bounded by streets, the side lot lines, and the dwelling facades that face the streets. In accordance with Section 78-301, the minimum distance between paved surface and the property line shall be two feet.
- (c) Except on any lot improved with a single family attached dwelling, no paved surface used for parking shall exceed 35 percent of the size of the front yard of the lot. See also Table 78-301(B): Table of Dimensional Standards in the Residential Zoning Districts, Section 78-401(B)(4) Specific Standards for Residential Uses, Section 78-402 Accessory Uses and Structures, and Section 78-402(F)(2), Restricted in Residential Zoning Districts.
- (d) Recreational vehicles owned or rented by occupants of the property may be parked on private property in residential districts in accordance with the following requirements:
1. For single family detached and duplex dwellings, recreational vehicles ~~parked on private property~~ shall be parked on a paved surface behind the front setback line of the principal structure (see "Recreational Vehicles" in Article IV, Use Regulations.) and shall not exceed two recreational vehicles per dwelling.
  2. For townhouse dwellings, recreational vehicles may be parked in designated parking areas provided that the parking area was designated for recreational vehicles and approved on a site plan. The total number of recreational vehicles parked in the designated parking area at any one time may not exceed one per five dwellings.
  3. For multi-family dwellings, recreational vehicles may be parked in designated parking areas ~~of multi-family developments~~ provided that the parking area is no closer than 200 feet ~~to from~~ any public right-of-way, and the use of the parking area for these purposes ~~was shown on an approved site plan or was otherwise has been~~ approved by the Zoning Administrator, in writing. The total number of recreational vehicles parked in the designated parking area at any one time may not exceed one per five dwellings.
- (e) The parking of commercial vehicles in residential districts shall comply with the following standards: Parking of commercial vehicles on private property used for residential purposes in areas zoned for residential use shall conform to the following regulations:
1. Except as provided below in this section, no person shall park any commercial vehicle on private property used for residential purposes in the town in areas zoned for residential use, except in a fully enclosed building with a vehicle door not exceeding nine feet in height over grade.

2. No person shall park any commercial vehicle on private property used for residential purposes in the town in areas zoned for residential use in a fully enclosed (or other) building with a vehicle door exceeding nine feet in height over grade.
  3. One resident of each single family detached or attached, garden court, or two-family dwelling unit in areas zoned for residential use may park per dwelling unit outside a fully enclosed building one vehicle licensed as a taxicab or limousine on such private property or one vehicle described in subparagraph (8) of the definition of commercial vehicle found in this chapter or one pick-up truck that is used for a commercial purpose but without external racks or ladders; and, for lots or parcels 20,000 square feet or more in size, one step van or panel truck with a registered gross weight, or gross vehicle weight rating as defined in Code of Virginia § 46.2-341.4, of 12,000 pounds or more, behind the rear building line of the main building, provided in all such cases other vehicles are permitted to park there.
  4. One resident of each multi-family residential unit in areas zoned for residential use may park per dwelling unit outside a fully enclosed building one vehicle licensed as a taxicab or limousine or one vehicle described in subparagraph (8) of the definition of commercial vehicle found in this chapter or one pick-up truck that is used for a commercial purpose but without external racks or ladders, (i) on such private property, provided other vehicles are permitted to park there; or (ii) in lawfully designated private community parking areas (if any) approved for parking of commercial vehicles in writing by the entity managing the private community parking area. Or, (if no such managing entity exists and for zoning purposes only) the zoning administrator may make such designation using the following standards: mitigation of visual, auditory, and operational effects on residents of the surrounding residential area and prevention of use of residential property for commercial purposes.
  5. The provisions of this section shall not apply to a commercial vehicle when picking up or discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location.
- (8) Public Shared Parking**
- (a)** The provisions of this section apply to land designated Planned Development-Downtown (PD-D) District and land zoned Central Commercial District (CCD) in sectors 1 and 2 of the Herndon Downtown Overlay Policy Area, as described in the Herndon 2010 Comprehensive Plan, adopted June 19, 1990 (sectors 1 and 2), where the development applicant has voluntarily respectively proffered or chosen participation in the public shared parking program. In the absence of such a proffer or choice, the other parking requirements set out in this Section apply to the development.
  - (b)** The Town Council plans for the provision of 266 surface public shared parking spaces to serve approximately 80,000 square feet of floor area in sectors 1 and 2. The projected capital cost of these parking spaces is approximately \$1,500,000.00; the average per space capital cost is \$5,445.00; and annual cost of operations, maintenance and administration of public shared parking spaces is \$156.00 per space. It is the policy of the Town that provision of public shared parking spaces or facilities shall be a public-private undertaking to fulfill the Town's public purpose of providing public parking in sectors 1 and 2 to serve residential

development and private businesses so that the public benefit and sectors 1 and 2 may be adaptively reused and revitalized.

(c) In lieu of providing parking spaces to fulfill the off-street parking standards of this Section for the Planned Development-Downtown (PD-D) District or Central Commercial District (CCD) for land in sectors 1 and 2, a development applicant or owner may respectively proffer or elect to pay to the Town 60 percent of the \$5,445.00 per space capital cost (or \$3,267.00 per space), and 50 percent of the \$156.00 per space yearly operation, maintenance and administration cost (or \$78.00 per year per space). Any such proffer or election may be made as an element of a Development Plan for a Planned Development-Downtown (PD-D) District or as an optional element to fulfill parking requirements in the Central Commercial District (CCD.)

(d) The Town Council, by ordinance, may prospectively adjust the capital cost and the yearly cost for operation, maintenance and administration to reflect the actual cost of these elements, as determined by certification of the Town Manager. The adjustment may not occur more than once every two calendar years.

(e) The following standards shall apply to public shared parking.

1. Number of Spaces
  - a. Parking space standards shall be computed at the rate of 3.3 spaces per 1,000 gross square feet of nonresidential floor area in the proposed development.
  - b. Use of public shared parking for residential uses shall be limited to parking for dwelling units above the street level floor. The required parking spaces for residential elements using public shared parking shall be 3.3 spaces per 1,000 gross square feet of residential floor area, except no residential unit shall require more than three parking spaces.
2. Reserved spaces shall not be counted for the purpose of computing the required number of spaces except those spaces reserved for and marked for use by persons with disabilities.
3. The Town shall be responsible for providing the land or facilities within sectors 1 and 2 for public shared parking pursuant to this section. The Town Council shall declare by resolution public land to be used for public shared parking. The Town Council by resolution may amend the declaration, may substitute new land for land formerly so declared, or may release land from such a declaration. The gross number of spaces designated by the Town and available as public shared parking shall be equivalent to or greater than the gross number of spaces allocated through development approval by the Town to lands participating in the public shared parking program.
4. A public shared parking option shall attach to the land and bind the successors and assigns of the person who applied for and is provided the rights and responsibilities of public shared parking.
5. There shall be no double counting of public shared parking spaces.
6. Except as set out in this section, the other provisions of this Section (78-500, *Off-street Parking and Loading*) shall apply to development in the Planned Development-Downtown (PD-D) District or Central Commercial District (CCD.)
7. In declaring public land to be used for public shared parking, the Town Council retains full police power over the land. The land shall be characterized as land in the nature of a public street or

- public square. The Town Council, among other powers, may restrict, condition, authorize temporary private use of under general law, temporarily prevent, or otherwise control the terms of public use of this land, while substantively realizing the goal of providing public parking.
- (f) Vehicle storage, vehicle repair and recreational vehicle parking shall not be permitted in public shared parking areas.

(9) **Design and Location of Parking Areas-Additional Off-street Parking Standards**

- (a) For every land use, there shall be provided sufficient area for access by and for the off-street standing and parking of all motor vehicles that may be expected to come to the establishment at any time under normal conditions for any purpose, whether driven by patrons, customers, purveyors, guests, employees or otherwise.
- (b) For any residential use in a residential zoning district, a maximum of two tandem (stacked) spaces shall be permitted on a per dwelling unit basis to meet the required parking in accordance with the following standards:
1. Vehicles using any stacked parking spaces shall be under the control and use of residents of the same dwelling unit.
  2. For townhouse dwellings, no more than two thirds of the required parking shall be met using tandem spaces.
  3. For multi-family dwellings, no more than ten percent of the required parking shall be met using tandem spaces.
- (c) Every stacking and parking area (other than parking required for single-family detached, two-family, and townhouse dwellings) shall be provided with safe and convenient access to a street and shall be improved in accordance with the standards of this Section.
- (d) The ground surface of parking and stacking areas shall be paved with a durable, dust free and hard material, such as bituminous hot mix or Portland cement, concrete, or some comparable material. Such paving shall be maintained for safe and convenient use at all times. See also Section 78-500(C)(11)(d), *Standards for Alternative Materials*.
- (e) All parking spaces shall be delineated and periodically restored to maintain a clear identification of separate parking stalls.
- (f) Screening and landscaping for off-street parking and vehicular stacking areas shall be provided as required in Section 78-503(E), *Vehicular Use Areas*.
- (g) Exterior lighting for stacking areas and parking areas shall comply with the standards in Section 78-515(I), *Exterior Lighting Standards*.
- (h) Parking of recreational vehicles for over 12 hours is prohibited within the commercial districts and service and industrial districts in accordance with Section 78-402(G)(19), *Recreational Vehicles*.
- (i) In calculating any required parking area (other than for parking spaces required for single family detached, townhouse, and two-family dwellings), sufficient access and maneuver space shall be provided to permit the parking and removal of any vehicle without moving other vehicles.
- (j) All parking areas shall be located and designed so as to avoid undue interference with the use of public streets and alleys. Parking areas shall provide suitable maneuvering room so that all vehicles may enter an abutting street in a forward direction. The backing of a motor vehicle onto a public street from a parking area shall be prohibited, except from lots used for single family detached, townhouse, and two-family dwellings.



- (k) Parking facilities shall be continually maintained in compliance with the approved site plan or subdivision plan; and shall be free of litter and debris at all times.
- (l) All parking areas shall be separated at least 10 feet from buildings to allow room for sidewalks, landscaping, and other plantings between the building and the parking area. This separation may be eliminated in the rear of buildings in areas designed for unloading and loading of materials.
- (m) To the extent possible, the visibility of parking areas from public streets shall be reduced by placing at least 20 to 40 percent of the parking to the rear or side of buildings facing public streets. Ideally, no more than one two-sided bay of nose-in parking should be placed between the building(s) and the street.

**(10) Dimensional Standards for Parking Spaces and Aisles**

Notwithstanding similar provisions in the Herndon Public Facilities Manual, the minimum dimensions for standard car parking spaces and parking lot aisles shall be provided as shown in Table 78-500(C)(5), *Dimensional Standards for Parking Spaces and Aisles*; below:

**TABLE 78-500(C)(5): DIMENSIONAL STANDARDS FOR PARKING SPACES AND AISLES**

Parking Angle	Stall Width (ft)	Depth of Stalls (ft)		One-Way Aisle	Two-Way Aisle (ft)*
		Perpendicular to Aisle			
45°	8.5	19.0		15.5	18.0
60°	8.5	20.0		17.0	19.0
90°	8.5	18.0**		23.0	23.0

\* Where required, fire lanes shall have a minimum width of 18'.

\*\* This dimension may be reduced by up to 1.5' (0.45m) where the Zoning Administrator determines that adequate "head-in" overhang exists exclusive of required planting or screening requirements, and sidewalks.

Parking structures may be subject to dimensional adjustments based on utilization, but in no case shall the standard space width be less than eight and one-half feet. Reduction in design standards shall be subject to approval by the approving authority.

**(11) Parking Alternatives**

For developments that are the subject of a zoning map amendment, special exception, site plan or preliminary subdivision plan, the Town Council may consider requests for the following alternatives to providing the number of required off-street parking spaces required by Table 78-500(C)(1), *Minimum Off-street Parking Standards*, in accordance with the respective standards.

For developments that have not been approved under a zoning map amendment, special exception, site plan or preliminary subdivision plan, and are the subject of a zoning inspection permit or a zoning appropriateness permit, the Zoning Administrator may consider requests for the following alternatives to mitigate existing conditions that may be insurmountable or too onerous to provide the number of required off-street parking spaces required by Table 78-500(C)(1), *Minimum Off-street Parking Standards*, in accordance with the respective standards.



- (a) Standards for Private Shared Parking for Land Uses, Other than Residential Land Uses, with Different Operating Hours or Different Peak Business Periods
1. Shared parking spaces are to be located within 500 feet of the primary entrance of all uses served, unless remote parking shuttle bus service is provided. Shared parking spaces are not separated from the use they serve by an arterial or collector road. In addition, adequate and safe pedestrian access is provided from and to the shared parking areas.
  2. A shared parking area is located on a site with the same or more intensive zoning classification than required for the primary uses served.
  3. Those wishing to use shared parking as a means of satisfying the off-street parking standards submit a shared parking request to the Zoning Administrator that justifies the feasibility of shared parking. Justification includes information on the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that share off-street parking spaces.
    - a. The maximum reduction in the number of parking spaces required for all uses sharing the parking area shall be 35 percent.
    - b. Directional signage that meets the requirements of this Chapter shall be added to direct the public to the shared parking spaces. It is preferable for the employees of the affected establishment to utilize these spaces.
  4. A shared parking plan is enforced through written agreement among all owners of record. An attested copy of the agreement between the owners of record is submitted to the Zoning Administrator for review prior to its recordation by the owners. Recordation of the agreement takes place before issuance of a Building Permit, Zoning Inspection Permit or Zoning Appropriateness Permit for any use to be served by the shared parking area. A shared parking agreement may be revoked by the applicant only if all required off-street parking spaces are provided in accordance with the requirements of Table 78-500(C)(1), *Minimum Off-street Parking Standards*. If the Zoning Administrator determines that a change in use of any establishment involved in the shared parking agreement necessitates a change in the agreement to satisfy the parking requirements of the new use or uses, the applicant shall amend the agreement accordingly and provide the additional parking needed to comply with the parking requirements of Table 78-500(C)(1), *Minimum Off-street Parking Standards*.
- (b) Off-Site Parking
- Parking shall be located on the same site as the principal use. Parking that is off-site and off-street may be permitted only where there are practical difficulties in the location of the parking area on-site or if the public safety or public convenience, or both, is better served by the location of required parking on another parcel of land. The Zoning Administrator may permit off-site parking if the Zoning Administrator determines that the following Standards are met:

1. The parking area is located on land under the same ownership or the use it serves.
2. A pedestrian way, not more than 600 feet in length, is established from the parking area to the use to be served.
3. The parking area is convenient to use without causing unreasonable:
  - a. Hazard to pedestrians;
  - b. Hazard to vehicular traffic;
  - c. Traffic congestion;
  - d. Interference with commercial activity or convenient access to other parking areas in the vicinity;
  - e. Detriment to the appropriate use of business property in the vicinity; or
  - f. Detriment to any abutting residential neighborhood.

**(c) Standards for Valet and Tandem Parking**

Tandem parking is permitted for nonresidential uses only if all of the standards below are satisfied:

1. Limited tandem parking for commercial and industrial uses is provided only for development that requires 75 or more parking spaces.
2. No more than 30 percent of the total number of spaces is designated as tandem.
3. A valet parking attendant is on duty during hours of operation.

**(d) Standards for Alternative Materials**

The Zoning Administrator may approve alternative materials based on the following standards:

1. Porous parking area surfacing may be considered for purposes of facilitating on-site stormwater control or environmental conservation. It is not intended for porous parking area surfacing to facilitate temporary parking arrangements or economy of site development.
2. Porous parking area surfacing materials may be provided in accordance with the Herndon Public Facilities Manual, as a special asphaltic paving material that allows stormwater to infiltrate at a high rate. Infiltrated water is temporarily retained below the pavement within a high-void aggregate base. Porous pavement is applicable as a substitute for conventional asphalt pavement on parking areas.
3. Porous parking area surfacing materials are not located on easements for underground utilities, in accordance with the Herndon Public Facilities Manual.
4. In accordance with Section 0,
5. *Reduction in the Minimum Number of Required Parking Spaces*, alternative paving materials may be required by the Zoning Administrator in cases where required parking areas encroach upon critical root zones.
6. Porous parking areas are properly maintained.
7. Where possible porous parking area surfacing materials are used in areas proximate to and in combination with on-site stormwater control devices.

**(D) Loading Space Standards****(1) Number of Required Off-street Loading Spaces**

The minimum number of loading spaces shall be provided on-site for all developments specified in Table 78-500(D)(1), *Required Off-Street Loading Spaces*, depending on the use or its gross floor area.

<b>TABLE 78-500(D)(1): REQUIRED OFF-STREET LOADING SPACES</b> "GFA" GROSS FLOOR AREA (IN SQUARE FEET)		
<b>LAND USE</b>	<b>GROSS FLOOR AREA (IN SQUARE FEET)</b>	<b>MINIMUM NUMBER OF SPACES</b>
Multi-family uses with more than 50 units	N/A	1 per each 200 units or fraction thereof
Offices and Personal service establishments	6,000 +	1
Space used by, designed for, or adaptable to Retail use	3,000-14,999	1
	15,000-49,999	2
	50,000-99,999	3
	100,000 +	4, +1 for each additional 100,000 gfa above 100,000 sf
Telecommunications Uses	6,000 +	1 per each 6,000 gfa
Wholesale, Light Industrial and Manufacturing uses	Up to 15,000	1
	15,000-49,999	2
	50,000 +	3 + 1 per each additional 50,000 gfa above 50,000 sf
All other commercial and industrial uses	Less than 40,000	1
	40,000 to 100,000	2
	100,000-160,000	3
	160,000-240,000	4
	240,000-320,000	5
	320,000-400,000	6
	Above 400,000	1 per each 90,000 above 400,000 gsf of area

**(2) Standards**

(a) Each loading space required by this section shall be at least 17 feet wide by 25 feet long (or deep), with at least 14 feet of overhead clearance. Each loading space shall have adequate, unobstructed means for the ingress and egress of vehicles, and a minimum aisle width of 24 feet.

(b) The spaces shall be located adjacent to the buildings loading doors, in an area that promotes their practical use.

(c) All loading spaces shall be delineated by signage and striping and labeling of the pavement.

(d) Every loading area shall be provided with safe and convenient access to a street, but in no case shall the loading space extend into the required aisle of the parking lot.

(e) The ground surface of loading areas shall be paved with a durable, dust free and hard material, such as bituminous hot mix or Portland cement, concrete, or some comparable material. Such paving shall be maintained for safe and convenient use at all times.

(f) Loading areas shall be landscaped in accordance with Section 78-503(E), *Vehicular Use Areas* and 78-503(G), *Additional Screening Requirements for Certain Features*.

(g) Exterior lighting for loading areas shall comply with the standards in Section 78-515(l), *Exterior Lighting Standards*.

**(3) Public Shared Parking**

In cases where public shared parking is used (see Section ~~78-500(C)(8)~~ ~~78-500(C)(9)~~), the developer or owner shall provide loading spaces on site, unless physically impossible due to existing development, as determined by the Zoning Administrator. In the latter case, the developer or owner may provide such spaces in the public shared parking lot or facility by special arrangements, to accommodate loading space size requirements.

**78-501 CIRCULATION AND TRAFFIC**

**(A) Applicability**

To relieve traffic congestion in the streets, promote the safe operation of vehicles in public rights-of-way, coordinate the interface of public rights-of-way with private rights-of-way, and ensure the proper and uniform development of utilities, curb cuts and other features affecting streets, safe circulation and traffic control shall be provided in accordance with the standards established in this Section. The standards of this Section shall apply to development in every zoning district.

**(B) Traffic Impact Studies**

The Traffic Impact Study assesses the impact likely to be created on capacity, level of service by a proposed development. Traffic studies shall identify what improvements, if any, are needed to ensure safe ingress to and egress from a site, maintain adequate street capacity on public streets serving the development, ensure safe and reasonable traffic operating conditions on streets and at intersections in the vicinity of a proposed development, avoid creation of or mitigate existing hazardous traffic conditions, minimize the impact of non-residential traffic on residential neighborhoods in the community; and protect the substantial public investment in the existing street system.

**(1) When Required**

A Traffic Impact Study is required for a site plan ~~that requires a public hearing, a site plan that may be approved administratively, preliminary~~ subdivision ~~Preliminary~~ plan, special exception, or official zoning district map application for the following proposed developments:

- (a) Residential proposals in excess of 20 dwelling units.
- (b) Non-residential proposals in excess of 10,000 square feet of floor area.
- (c) Any commercial drive-through service proposal.
- (d) Uses other than residential single lot development with proposed direct vehicular access to Elden Street or Herndon Parkway.
- (e) Any expansion of an existing use exceeding 5,000 square feet if no traffic impact study has been approved for the use in the five year period preceding the application for expansion.

**(2) Preparation**

When required, applicants shall submit a Traffic Impact Study prepared and containing information in accordance with the Town's administrative Guidelines and Policies for Traffic Impact Studies at the time of application. Applications that require a traffic study but do not include a traffic study shall be found insufficient and returned to the applicant, in accordance with Section 78-201(F).

**(3) Level of Service (LOS) Standards**

Prior to approval of proposed development, the application materials shall demonstrate either:

- (a)** The proposed development does not cause
  1. the level of service for any signalized intersection located within the Traffic Impact Area to be lower than "LOS D"; and
  2. No individual turning movement level of service at an intersection falls below "LOS E."
- (b)** The proposed development does causes an intersection or intersections within the designated traffic impact area to fall below "LOS D," or an individual turning movement level of service does fall below "LOS E." To address the level of service, the applicant provides guarantees that associated street improvements will be constructed or in place to bring the affected intersections to "LOS D" by the time the impacts from the development occur.

The Traffic Impact Study shall identify those improvements needed to maintain the existing level of service, and what additional improvements would be needed to raise the level of service to the standards indicated.

**(C) Circulation Standards**

Circulation standards are provided to help ensure that access points to development are designed to provide safe and smooth traffic flow, controlled turning movements, and safe and efficient pedestrian ways. The standards promote the provisions of turn lanes, through lanes, medians and devices to guide traffic flow where existing or anticipated traffic flows indicate that such lanes or devices are necessary to provide safe and adequate access and egress to the site. The objective is for development to have a safe and adequate on-site traffic circulation system, and for the on-site traffic circulation system to be integrated with the off-site circulation system of the Town.

**(1) Vehicular Movement**

- (a)** Principal vehicular access to the proposed development is from roads with adequate capacity to support existing traffic, and the external traffic estimated to be generated by the development
- (b)** On-site roads shall be designed to ensure emergency service vehicles have access to all lots and development on the site.
- (c)** During site development, adjoining streets are improved to provide on-street parallel parking in front of the development with the exception of development frontage on arterials and collector streets.
- (d)** On-street parallel parking is not used to meet on-site parking requirements, except where approved as part of a planned development district.

**(2) Pedestrian Movement**

- (a)** Pedestrian access is designed so as to provide safe and convenient pedestrian ways to, from and within the proposed development. Pedestrian ways within the development are provided to connect the buildings within the development.
- (b)** Sidewalks are provided on both sides of every street (including private streets), except in cases where environmental or topographic features make such provision impractical.

- (c) Connections to existing or planned sidewalks are made at the property boundaries by incorporating and continuing all sidewalks stubbed to or shown as stubbed to the boundary of the development by previously approved plans. In addition, future sidewalk connections to adjacent developable parcels are located at planned or current street connections along each side of the development's boundary.
- (d) Developed recreation space and open space intended for pedestrian use, and schools, religious institutions, and other pedestrian-oriented uses, are connected by pedestrian ways to residential and office uses, with a minimum of street crossings. Where possible, office and residential uses are to be connected by an integrated pedestrian way system.
- (e) Pedestrian crossing(s) at the perimeter of the development are marked and controlled. Where pedestrians are exposed to substantial vehicular traffic, barriers may be warranted to prevent crossing at other than designated points.
- (f) Pedestrian passages over and under vehicular routes are used wherever possible.
- (g) Bicycle paths, trails or lanes are coordinated with the on-site traffic circulation and pedestrian system, to the maximum extent feasible. Where feasible, bicycle crossings and pedestrian crossings are combined.

## 78-502 PROTECTION OF TREES AND VEGETATION ON PRIVATE PROPERTY AND DURING DEVELOPMENT

### (A) Purpose

The purpose of this Section is to protect existing tree and vegetation cover during development so as to protect the natural environment of the Town and preserve its visual and aesthetic character. This Section is intended to establish standards for maintaining, preserving or removing and for the removal of trees on public and private property within the Town. Its specific purposes are to promote: maintenance and survival of trees within the Town; the use of site design techniques that preserve the natural environment and enhance the developed environment; the conservation of energy through the retention of existing tree cover; the promotion, protection, and enhancement of wildlife habitat; and the enhancement of the quality of life of the Town and its citizens.

Chapter, 26, Article II of the Herndon Town Code contains provisions for tree protection on public lands and for maintenance of trees on private property when required for public safety.

### (B) Applicability

#### (1) General

- (a) No healthy tree shall may be destroyed or removed from any parcel of land for which an application for a subdivision plat, subdivision plan, ~~or~~ site plan, single lot development plan, or generalized development plan for a special exception has been submitted to the town for approval. No healthy tree may thereafter be destroyed or removed unless such destruction/removal has been specially permitted or required under the terms of an approved subdivision plat, subdivision plan, or site plan, single lot development plan, or generalized development plan for a special exception, except on lots for single family detached dwellings. The provisions of this section shall apply to all trees. Each tree unlawfully removed or destroyed shall constitute a separate violation of this section.
- (b) No subdivision plat, subdivision plan, or site plan single lot development plan or generalized development plan for a special exception that

provides for the destruction or removal of any existing healthy tree as regulated by this section shall be approved by the ~~reviewing authority~~ ~~zoning administrator~~ unless, in the discretionary judgment of the zoning administrator, such destruction/removal:

1. Is necessary for development on the parcel to be accomplished in accordance with the other approved aspects of the plan or plat; or
2. Would further the purposes of this article allowing for a more appropriate landscape design.

## **(2) Exemptions**

The following development is exempt from the standards of this Section:

- (a) The removal of dead or naturally fallen trees or vegetation, or trees or vegetation that is determined to be a threat to the public health, safety, or welfare.
- (b) The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, or for the purpose of performing authorized field survey work.
- (c) The severe pruning or removal of trees if it is demonstrated to the Zoning Administrator they pose an immediate or imminent threat (but not an emergency) to improved structures.
- (d) Removal of trees on Town-owned property pursuant to Chapter 26, Article II of the Herndon Town Code.
- (e) The necessary and reasonable actions of public and private utility companies within their utility easements provided that proper arboriculture techniques are used.

## **(C) Tree and Vegetation Protection and Replacement on Private Property**

### **(1) Retention of Existing Site Canopy**

Priority areas for retention of existing trees and vegetation shall include, but shall not be limited to: riparian areas, wetlands, wildlife habitat, aquifer or wellhead protection areas, and other sensitive natural areas. Streets, buildings, and lot layouts shall be designed to minimize disturbance to all trees eight inches diameter at breast height or larger.

For purposes of this Section, the area of existing site canopy to be protected shall be known as the "tree protection zone."

### **(2) Replacement and Mitigation Requirements**

- (a) A Tree Replacement Plan (TRP) shall be submitted when the development of a site causes disturbance, destruction or removal of trees or vegetation inside the tree protection zone, or when damage related to the construction of the site in the opinion of the Town's community forester will lead to the deterioration or death of protected trees.
- (b) A TRP shall be submitted for tree replacement for those trees required to be preserved under the terms of this chapter. A TRP shall provide a design for loss and replacement of trees shown to be preserved on a subdivision plat, subdivision plan, site plan or single lot development plan.
- (c) The provisions of this section shall apply when disturbance, destruction or removal of trees or vegetation inside the tree protection zone shall be deemed by the Town's community forester to be caused by construction



associated with the approved site development plan which includes public improvements.

- (d) The trees to be replaced under the TRP shall consist of 100 percent of the total diameter at breast height destroyed. The replacement plants shall be spaced in accordance with sound urban reforestation procedures as provided for in the Reference Handbook for Foresters by the United States Department of Agriculture. If it is determined that the number of trees to be planted exceeds the space in which these trees can be accommodated in the tree protection area, those excess trees can be planted elsewhere on the site.

1. Any tree which is damaged or removed from the protected site canopy area shall be replaced with one or more trees that have a caliper of at least two inches and a cumulative caliper equal to or greater than the original tree.
2. Any tree eight inches DBH or larger that is damaged or removed from the protected site canopy area shall be replaced by three trees with a minimum 3.5-inch caliper.
3. Replacement trees shall be either planted on the developed site if sufficient space is available, or planted on public property as approved by the Town Council. See also Section 78-503(H) *Permitted Changes in Landscaping Plant Materials*.
4. All replacement plant materials shall conform to the requirements set forth in this Chapter.

- (e) Replacement trees shall be maintained through an establishment period of at least three years. The applicant shall guarantee the survival and health of all replacement trees during the establishment period and guarantee any associated replacement costs. If the replacement trees do not survive the establishment period, the applicant will purchase and install new replacement trees.

**(D) Tree Protection During Construction**

**(1) Owner's Responsibility**

During development of the property, the owner or developer shall be responsible for the erection of any and all barriers necessary to protect any existing or installed vegetation from damage both during and after construction.

**(2) Tree Protection Fencing**

- (a) All existing trees that are to be preserved in the tree protection zone shall be fenced with a sturdy and visible fence before grading begins. Fencing shall extend as far as practical; preferably at least one foot distance from the tree for each inch of caliper, but in no case closer than six feet to the trunk. The applicant and Zoning Administrator shall consider existing site conditions in determining the exact location of any tree protection fencing.
- (b) All fencing required by this Section shall be a minimum four feet high and of durable construction. Four-foot orange polyethylene laminar fencing is acceptable. Passive forms of tree protection may be utilized to delineate tree save areas that are remote from areas of land disturbance. These must be surrounded by fencing, continuous rope, or durable taping (minimum four inches wide).
- (c) Signs shall be installed on the tree protection fence visible on all sides of the fenced-in area (at least one every 150 linear feet). The size of each sign must be a minimum of two feet by two feet and shall contain the following language: "TREE PROTECTION ZONE: KEEP OUT."



- (d) The tree protection fencing shall be clearly shown on the Site Plan, Preliminary Subdivision Preliminary Plan, or Single Lot Development Plan. No construction, grading, equipment or material storage, or any other activity shall be allowed within the fenced area. Fencing shall be maintained until the final site inspection prior to the Occupancy Permit is scheduled. The fencing shall be removed prior to final site inspection for the Occupancy Permit.

(3) **Encroachments**

Encroachments within the critical root zones of trees, or within designated tree protection zones, shall occur only in rare instances. If such an encroachment is anticipated, the following preventive measures shall be employed:

- (a) The removal of trees adjacent to tree save areas can cause inadvertent damage to the protected trees. Wherever possible, it is strongly recommended to cut minimum one and one-half-foot trenches along the limits of land disturbance, so as to cut and root prune, rather than tear, roots.
- (b) Where compaction might occur due to traffic or materials through the tree protection zone, the area must first be mulched with a minimum four-inch layer of processed pine bark or wood chips, a 6-inch layer of pine straw, or an approved specialized mat. Equipment or materials storage shall not be allowed within tree protection zone areas.

(E) **Tree Preservation Credit**

- (1) Except as provided in this section, existing, healthy trees which are to be preserved may be included to meet all or part of the landscaping requirements described in Section 78-503, *Site Landscaping*, if the site plan, preliminary subdivision plan or single lot development plan identifies such trees. Existing trees that are not in a required buffer area shall not be included to meet any part of the landscape requirements for buffers.
- (2) In order to encourage the preservation of trees on a site, a tree preservation credit for trees that are not destroyed as a result of the construction process may be granted. The credit provided will be 1.25 multiplied by the number of preserved trees as delineated on the site plan, preliminary subdivision plan or single lot development plan and surveyed in the field. A higher factor of up to 4.0 may be used for trees of outstanding size and quality if approved by the zoning administrator. This number shall be subtracted equally from the canopy and evergreen tree requirements.

(F) **Administrative Adjustments from Required Setbacks**

An encroachment into a required building setback of up to five percent may be approved by the Zoning Administrator through the Administrative Adjustment procedure (see Section 78-202(E)) as a way to accommodate healthy existing trees and their root zones. This provision shall not be construed to allow a structure to exceed the maximum floor area as specified in Section 78-300(E), *Dimensional Standards*.

(G) **Reduction in the Minimum Number of Required Parking Spaces**

Up to a five percent reduction in the number of off-street parking spaces required on the site shall be allowed if the reduction in the amount of required pavement will preserve the root zones of existing healthy trees with a diameter at breast height of 10 inches or greater. The amount of reduction can be determined only after taking into consideration any unique site conditions and the impact of the reduction on parking needs for the use,

1 and must be agreed upon by both the applicant and Zoning Administrator. Alternative  
2 paving materials (see Section 78-500(C)(11)(d), *Standards for Alternative Materials*) may  
3 be required by the Zoning Administrator in cases where required parking areas encroach  
4 upon critical root zones.

5 **(H) Monitoring and Maintenance**

6 **(1) Maintenance Responsibility**

7 The owners of the property and their agents, heirs, or assigns shall be  
8 responsible for the preservation and maintenance of all trees required to be  
9 saved and protected under this Section.

10 **(2) Performance Guarantees**

11 Prior to the issuance of a Grading Permit (or Building Permit if no grading is  
12 required), the owner/developer shall post a financial guarantee in accordance  
13 with the provisions of Section 78-204, *Performance Guarantees*, to ensure that  
14 improperly removed, damaged, or destroyed trees are replaced should the  
15 applicant fail to follow the requirements of this Section. Financial guarantees  
16 shall be returned following the issuance of an Occupancy Permit, or upon  
17 completion of the establishment period for replacement vegetation specified in  
18 Section 78-502(C)(2), *Replacement and Mitigation Requirements*.

19 **(3) Separate Violation**

20 Each tree unlawfully removed or destroyed after submittal of a site plan,  
21 subdivision plan ~~or single lot development plan~~, or inconsistent with an approved  
22 site Plan, subdivision plan, ~~single lot development plan~~, ~~final~~ subdivision ~~record~~  
23 plat, proffered zoning map amendment, or special exception shall constitute a  
24 separate violation of this Chapter.

**78-503 SITE LANDSCAPING****(A) Purpose**

It is the purpose of this article to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance, preservation and removal of trees, shrubs and other plants within the town. The purpose of this section is to promote this purpose by:

- (1) ensuring and encouraging the planting, maintenance, restoration and survival of desirable trees, shrubs and other plants;
- (2) ensuring the protection of community residents and visitors from personal injury and property damage, and the protection of the town from property damage, caused or threatened by the improper planting, maintenance or removal of trees, shrubs or other plants;
- (3) reducing erosion and sedimentation;
- (4) reducing stormwater runoff and the costs associated therewith;
- (5) preserving the water table;
- (6) ensuring ground water recharge;
- (7) conserving energy through proper plantings;
- (8) restoring soils and land denuded as a result of construction and/or grading;
- (9) protecting and enhancing property values and aesthetic qualities in the town;
- (10) protecting and enhancing the overall environment of the town;
- (11) provide visual screening, where appropriate;
- (12) provide sound attenuation, where appropriate;
- (13) promote, protect and wildlife habitat;
- (14) enhance the quality of life of the town and its citizens.

**(B) Applicability**

These standards shall apply to all development, and shall be applied at the time of application submittal for a site plan or subdivision plan, whichever occurs first.

**(C) General Requirements**

All development shall be required to comply with the following landscaping standards:

**(1) Components of Landscape Requirements**

Sites shall meet the cumulative requirements enumerated for

- (a) the buffer strip inside entire perimeter of parcels,
- (b) vehicular use areas, and
- (c) site areas not otherwise contained in perimeter buffers and vehicular use areas.

In general, required landscaping shall be contained within the boundary of the subject property, unless otherwise noted in this Chapter. See also Section 78-504, *Open Space*.

**(2) Landscape Plan**

In order to implement the requirements of this Section, a Landscape Plan that demonstrates compliance with the standards of this Section shall be included with or as a part of each site plan required by Section 78-202(F), *Site Plan*, ~~*Single Lot Development Plan and Building Location Surveys*~~, ~~or with an Official Zoning District Map Amendment subject to a proffer related to landscaping (see Section 78-202(A))~~. A landscape plan shall contain the following elements, and ~~shall be shown on a sheet separate from other~~ ~~may be combined with those~~ required elements, for a ~~site~~ plan as described in ~~Table 78-201(C)(8): Section 78-202(F)~~.

- (a) Groups of trees and individual trees standing alone that will be retained on the site, accurately identified and located;
- (b) Designated "tree protection areas," accurately identified and located;
- (c) A chart of required and proposed plant materials conforming to the requirements of this chapter;
- (d) A schedule of the of the proposed plant species, size, common and botanical name;
- (e) Methods of proposed irrigation and drainage;
- (f) Any other information that will help demonstrate how the site will meet the landscaping standards in Article V;
- (g) Drawings showing planting details for landscape materials proposed to be placed on the site;
- (h) Any other information deemed necessary by the reviewing authority.

**(3) Effect on Other Requirements**

- (a) The provisions and requirements of this article shall not be construed in any manner such as to lessen or eliminate any other requirement of this chapter, or of other portions of the Code of the town, or of any other applicable rule, regulation or law.
- (b) Required buffers may occur within required yards or setbacks, except within individual townhouse lots. The required setback or yard shall be no less than the width of the required buffer as established in Section 78-503(D)(1) and Section 78-503(D)(2).

**(4) Conflict between requirements**

In case of conflict between screening and line-of-sight distance requirements, the line-of-sight distance requirements shall prevail.

**(5) Penalty for Violation**

Every person who violates any section under this section shall be guilty of a misdemeanor.

**(D) Buffer Strip Required Inside Entire Perimeter of Parcels**

**(1) Buffer Classifications for Property Boundaries That Are Not Adjacent to Public Rights-of-Way**

- (a) Every parcel of land created upon a subdivision of land other than those parcels to be developed for single family detached or duplex dwelling units, and every parcel of land for which a site plan is required under the provisions of this chapter, except as provided for in the central commercial and planned development-mixed use districts, shall contain an area immediately inside the entire perimeter of the parcel, referred to as the buffer strip. The width of the buffer strip and the landscape materials contained within it are prescribed in Table 78-503, Landscape Buffer Classifications. In developments where land is subdivided for lots, such as townhouses, the required buffer shall be exclusive of land contained within lots for individual dwelling units.
- (b) When a wall or fence is required and the combined width of the required buffer and the amount of open space abutting the buffer exceeds 50 feet in width on the property in question, a berm with additional landscaping may be substituted for the wall or fence at the discretion of the reviewing authority.

## (c) Other Requirements:

1. Screening shall be planted or constructed to a height of not less than 3 feet above grade where the property containing a parking area to be screened does not abut land zoned for residential use.
2. Screening shall be planted or constructed to a height of not less than seven feet above grade where the property containing a parking area to be screened abuts land zoned for residential use.

**Table 78-503. Landscape Buffer Classifications When Not Adjacent to Public Rights-of-Way**

Letter = Buffer Class Number = Minimum Width of Buffer, in feet n/a – no buffer classification applies

Zoning districts		<b>Zoning of Adjoining Property</b>											
		R15	R10	RTC	RM	CC	CS	CO	O&LI	PD-R	PD-B	PD-D	PD-W
<b>Zoning of Property Subject to Development Seeking Approval</b>	R15	n/a	n/a	A <sup>10</sup>	A <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	A <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>
	R10	n/a	n/a	A <sup>10</sup>	A <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	A <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>
	RTC	A <sup>15</sup>	A <sup>15</sup>	A <sup>10</sup>	A <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	A <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>
	RM	A <sup>15</sup>	A <sup>15</sup>	A <sup>15</sup>	A <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	A <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>	B <sup>10</sup>
	CC	C <sup>25</sup>	C <sup>25</sup>	C <sup>25</sup>	C <sup>25</sup>					C <sup>25</sup>			
	CS	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	C <sup>15</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>
	CO	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	C <sup>15</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>
	O&LI	C <sup>20</sup>	C <sup>20</sup>	C <sup>20</sup>	C <sup>20</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	C <sup>20</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>
	PD-R	B <sup>15</sup>	B <sup>15</sup>	B <sup>15</sup>	B <sup>15</sup>	B <sup>15</sup>	B <sup>15</sup>	B <sup>15</sup>	B <sup>15</sup>	B <sup>15</sup>	B <sup>15</sup>	B <sup>15</sup>	B <sup>15</sup>
	PD-B	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	C <sup>15</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>
	PD-D	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>					C <sup>15</sup>			
	PD-W	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	C <sup>15</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>	D <sup>7.5</sup>

**Type and Amount of Landscape Material Required When Not Adjacent to Public Rights-of Way**

<b>Landscape Buffer Class</b>	<b>Average Number of Canopy Trees per Linear Feet of Property Boundary</b>	<b>Average Number of Evergreen Trees per Linear Feet of Property Boundary</b>	<b>Average Number of Under story or Ornamental or Under Story Trees per Linear Feet of Property Boundary</b>	<b>Fence*</b>
<b>A</b>	1 per 30	1 per 30	1 per 50	Six-foot tall fence.
<b>B</b>	1 per 25	1 per 25	1 per 50, plus one shrub per every three linear feet	Six foot tall masonry wall.
<b>C</b>	1 per 25	1 per 25	1 per 50	Masonry wall of six feet in height.
<b>D</b>	1 per 30	1 per 30	1 per 50	Permitted, with maximum visibility between properties and a design that discourages climbing.

**Table 78-503. Landscape Buffer Classifications When Not Adjacent to Public Rights-of-Way**

Letter = Buffer Class    Number = Minimum Width of Buffer, in feet    n/a – no buffer classification applies

\*When the required wall of fence is pre-existing on the abutting property, then by written agreement with the owner or owner's designee of the abutting property, an average of one additional evergreen or canopy tree every 30 feet and one additional shrub every six feet may be planted in lieu of providing the fence or wall.

**Examples for Selecting the Correct Landscape Buffer:**

1. An owner of a convenience store wants to locate the store in the CS zoning district, adjacent to land that is in the R-10 zoning district. The convenience store property would be required to include a Landscape Buffer Class "D" of 15 feet in width along the boundary shared with the R-10 property. Within the Buffer Class "D", the developer would be required to place one canopy tree every 40 linear feet, plus one evergreen tree every 40 feet, plus a masonry wall of six feet in height.
2. A developer of an office building wants to locate the building in the O&LI district, adjacent to land that is in the PD-B district. The office building property would be required to include a Landscape Buffer Class "E" of 7.5 feet in width along the boundary shared with the PD-B property. Within the Buffer Class "E", the developer would be required to place one canopy tree every 40 linear feet, and evergreen shrubs planted 3' on center. If the developer chooses to provide a fence, it must permit maximum visibility between the O&LI property and the PD-B property.

**(2) Buffer Requirements for Property Boundaries That Are Adjacent to Public Rights-of-Way**

- (a)** In residential districts: The required buffer width is ten feet. It shall contain one canopy tree every 35 linear feet. Alternatively, the trees may be planted between the sidewalk and curb if the distance between the curb and sidewalk is at least five feet in width, and no other buffer shall be required. In developments where land is subdivided for lots, such as townhouses, the required buffer shall be exclusive of land contained within lots for individual dwelling units.
- (b)** In commercial and industrial districts: The required buffer width is ten feet. It shall contain one canopy tree every 35 linear feet. The trees may be planted between the sidewalk and curb where the distance between the curb and sidewalk is at least five feet in width. When the distance between the curb and sidewalk is less than five feet in width, the trees shall be planted on the property in question, adjacent to the public right-of-way.
- (c)** Other Requirements:
  1. Along designated Green Streets, the buffers adjacent to public rights-of-way shall be augmented by an average of one canopy tree every 35 linear feet and one evergreen tree every 70 linear feet. Trees and shrubs may be clustered, but a continuous screen of evergreen shrubs shall be required if parking and vehicle drive-aisles are visible from the right-of-way. See Section 78-505 for additional standards for Green Streets.
  2. For buffer requirements in the CC District and PD-D District, see Section 78-511, *Downtown*.
- (d)** Zoning Change  
If changes of use or change in zoning classification occur for an existing use or parcel and such change results in a higher land use classification (see Table 78-503, *Landscape Buffer Classifications When Not Adjacent to Public Rights-of-Way*), the proposed use or parcel shall be brought into compliance with the perimeter buffer requirements of this Section or as close as existing site conditions permit, as determined by the Zoning Administrator. See also Section 78-604, *Correction of Landscaping, Parking and Buffering Upon Expansion of a Structure or Use*.

**(3) Location of Buffers**

- (a)** The perimeter buffers required by this Section shall be located along the outer perimeter of the parcel and shall extend to the parcel boundary line or right-of-way line; however, the buffers may be located along shared access easements between parcels in non-residential developments.
- (b)** In unified commercial subdivision developments as described in Article III, buffers are not required along property lines internal to the subdivision.
- (c)** Development Within Required Buffers
1. The required buffer shall not contain any development, impervious surfaces, or site features that do not function to meet the standards of this Section or that require removal of existing vegetation, unless otherwise permitted in this Chapter.
  2. No grading, development, or land-disturbing activities shall occur within the buffer unless approved by the Zoning Administrator.
  3. Sidewalks and trails may be placed in buffers provided that damage to existing vegetation to be saved is minimized and the Town's community forester determines that the required landscape buffer plantings are not adversely impacted.
  4. Utilities are not permitted in buffers unless no reasonable alternative exists. When utilities and other easements must intrude into the required buffer, they shall run perpendicular to the property line.
- (d)** Credit for Existing Vegetation
- Existing significant vegetation within the perimeter buffer area shall be preserved and credited toward standards for the type of buffer required, unless otherwise approved by the Zoning Administrator at the time of landscape plan approval, or unless the existing vegetation is seriously diseased, damaged and treatment would not be practical, or vegetation has given or could give rise to a nuisance situation or is not suitable for the required screening. Wherever practical, vegetation removal should be limited to just those portions of the vegetation area necessary to correct any problems, while the remainder of the vegetation area without problems shall be left intact.

**(E) Vehicular Use Areas****(1) Screening**

Vehicular use areas shall be screened from view of public streets and adjacent properties. Such screening shall be exclusive of the required perimeter buffer. Where a vehicular use area abuts a public right-of-way, or an adjacent property, the following requirements shall apply:

- (a)** Screening for vehicular use areas shall form a continuous visual screen, excluding required visibility clearances at driveways. The owner may incorporate fences, walls, earthen berms or any combination thereof in addition to the required landscaping. See Section 78-509, ~~for standards~~ ~~for~~ *Visibility Clearance*.
- (b)** Screening for vehicular use areas shall consist of evergreen shrubs. Shrubs shall be planted no less than three feet on center.
- (c)** Plant materials shall be planted and maintained at a minimum height of 36 inches above the surface elevation of the adjacent vehicular use area, provided the installation meets all visibility clearance standards in Section 78-509.



- (d) The screening shall be protected from vehicular intrusion by the installation of curbing. Shrubs shall not be planted within 2.5 feet of the back of the curb. In the absence of curbing, wheel stops, extra width in the buffer, or other methods may be approved by the Zoning Administrator.
- (e) Landscape strips for screening vehicular use areas shall be located on the property, and shall be placed to assure visibility and safety of pedestrians on the public street, as well as those within the parking lot.
- (f) Screening strips may be integrated into adjacent perimeter buffers on site, provided that the minimum standards of this section are maintained.
- (g) Screening requirements shall be met for both parking lots and parking structures. In the case of parking structures, landscaping may be provided on the structure itself in planters with proper irrigation and drainage accommodations.

**(2) Other Landscaping in Vehicular Use Areas**

There shall be at least one canopy tree for every eight parking spaces not contained within a covered parking structure or garage when a site plan or subdivision plan indicates more than four parking spaces. Such trees shall be planted within the vehicular use area and not within abutting buffers or other perimeter open space. The following requirements shall apply for any landscaping placed within vehicular use areas:

- (a) Vehicular use area landscaping shall be planted within islands.
- (b) No parking space shall be located more than 120 linear feet from a tree provided on the site.
- (c) No more than ten percent of vehicular use area trees shall be under story or ornamental species.
- (d) Any vehicular use area island used for landscaping, other than groundcover or turf, shall contain a minimum of 120 square feet of unpaved planting area. Islands with less than 120 square feet shall not be considered landscape islands for purposes of placing required landscaping, but may be counted toward any green space requirement if applicable standards are met (see Section 78-504(B)(4)(b) *Composition*).
  - 1. The minimum width of a planting area with a tree shall be eight feet.
  - 2. For purposes of safety, mobility and clearance, any trees or shrubs planted within the unpaved planting area shall be planted a minimum of 3.5 feet from the edge of pavement. For this purpose, the edge of pavement shall be considered the face of continuous curb or, absent a continuous curb, the edge of pavement.
  - 3. Each tree shall be surrounded by a minimum of 120 square feet of unpaved planting area.
- (e) Islands shall be arranged in the following manner:
  - 1. There shall be a landscape island at the end of every row of parking spaces.
  - 2. Landscape islands shall be single islands providing a minimum of 120 square feet of unpaved planting area or they shall be combined to create larger landscaping areas within vehicular use areas. Combined landscape islands shall provide the required minimum of 120 square feet of area of unpaved planting area per tree and shall meet or exceed required clearances stated above in paragraph 78-503(E)(2)(d)(2). Combined islands can be used to provide tree save areas. When utilized for tree save purposes, additional clearance requirements may be required by



the Zoning Administrator to ensure the health of the trees.

Pedestrian walks shall not encroach into the required 120 square feet of unpaved planting area.

3. Vehicular use area landscape requirements shall be met for both parking lots and exposed parking spaces located on parking structures. In the case of parking structures, landscaping shall be provided on the structure itself in planters with proper irrigation and drainage accommodations.

(f) In order for existing trees to be retained in a parking lot area, sufficient ground, as determined by an arborist for the town, shall be left ungraded around each tree to allow for its survival. Proper arboriculture measures, as adopted by the community forester, may be required to allow its survival.

**(F) Landscaping for Site Areas Not Otherwise Contained in Perimeter Buffers and Vehicular Use Areas**

**(1) Standards**

**(a) Amount of Landscaping**

Landscaping for site areas not otherwise contained in perimeter buffers and vehicular use areas shall be required for all development, and shall be supplied in the amounts identified in Table 78-503(F), *Required Site Landscape Plantings* shall meet the minimum size standards in Section 78-503(I), *Other Landscape Standards*.

<b>TABLE 78-503(F): REQUIRED SITE LANDSCAPE PLANTINGS</b>	
<b>TYPE OF USE</b>	<b>REQUIRED PLANTINGS*</b>
Single family detached dwelling, Two-family dwelling, Group home, or Quadruplex	4 canopy trees, 3 evergreen trees, and at least 12 shrubs per dwelling unit
Townhouse Dwelling	1 canopy tree, 1 evergreen tree, and at least 10 shrubs per dwelling unit lot
Townhouse development common area	16 canopy trees + 10 evergreen trees per acre, and at least one shrub per each 5 feet of outer building perimeter
Multiple-family dwelling, and Home for the elderly	12 canopy trees + 7 evergreen trees per acre, and at least 1 shrub per each 5 feet of outer building perimeter
Public and Institutional Uses	16 canopy trees + 10 evergreen trees per acre, and at least 1 shrub per each 5 feet of outer building perimeter
Business Uses <u>and Mixed Uses</u>	16 canopy trees + 10 evergreen trees per acre, and at least 1 shrub per each 5 feet of outer building perimeter
<u>*For purposes of calculating required plantings, the acreage of the entire site shall be used.</u>	

**(b) Other Requirements**

Landscaping as supplied in Table 78-503(F), *Required Site Landscape Plantings* shall meet the following requirements, as well as the minimum size standards in Section 78-503(I), *Other Landscape Standards*.

1. At least one-half of the required shrubs shall be of an evergreen variety.
2. Flowering ornamental trees, a minimum caliper of one and one half inches, may be substituted on a one-for-one basis, for up to 25 percent of required canopy trees.
3. For townhouses in the PD-D, trees and shrubs required for individual lots may be located on common area.
4. For multi-family dwellings, homes for the elderly, public uses, institutional uses, and business uses:
  - a. Fifty percent of the perimeter of the principal structure shall have a landscape strip with a minimum width of 7.5 feet and it shall contain a portion of the landscaping required in Table 78-503(F);
  - b. The building's perimeter landscape strip shall be located immediately adjacent to the building unless it is incorporated into a pedestrian area adjacent to the landscaping.
  - c. The building's perimeter landscape strip shall be designed to receive adequate light and moisture to support the growth of healthy plants.
5. The Zoning Administrator may require additional landscaping beyond these requirements if necessary to buffer an adjacent parcel from noise and light emanating from the subject parcel.

**(G) Additional Screening Requirements for Certain Features**

**(1) General Requirements**

In addition to the landscaping and buffer standards in this Section, screening shall be required for all uses other than single family detached and townhouses to conceal specific areas of high visual or auditory impact or hazardous areas. Such areas shall be screened at all times, unless otherwise specified, regardless of adjacent uses, districts, or other proximate landscaping material.

**(2) Review**

In addition to review as part of a site plan or subdivision plan application, all screening structures shall be subject to review and decision by the Architectural Review Board or Heritage Review Board, as appropriate.

**(3) Items to be Screened**

The following areas shall be screened in accordance with this section: waste receptacles and refuse collection points; loading and service areas; outdoor storage areas (including storage tanks); generators; roof-mounted features such as mechanical equipment, antennae, utility meters and utility boxes; and ground level mechanical equipment, and utility meters and boxes.

**(4) Method of Screening**

**(a)** Ground level areas that are visible from a public right-of-way or that lie within 25 feet of a property line abutting a property zoned and used for residential

Screening for loading and service areas, outdoor storage areas (including storage tanks); generators and ground level mechanical

equipment shall be screened with a masonry wall with metal opaque gates on the fourth side. The walls shall be tall enough to visually screen the object located within. The interior surfaces of the wall shall be designed with sound absorption materials if the equipment being screened produces noise.

- (b) Ground level areas that are not visible from a public right-of-way or that lie 25 feet or more from a property line abutting a property zoned and used for residential

If determined to be appropriate prior to final approval for the site plan or subdivision plan, the zoning administrator may require screening with a wood fence or landscaping for:

1. Loading and service areas;
2. Ground level mechanical equipment, utility meters, and utility boxes that do not generate audible sound at the property line.

~~Loading and service areas not visible from a public right-of-way, ground level mechanical equipment, and utility meters and boxes that do not generate audible sound at the property line may be screened by a wood fence or landscaping if determined to be appropriate by the Zoning Administrator prior to final approval for the site plan or subdivision plan.~~

- (c) Roof-mounted features such as mechanical equipment, antennae, utility meters and utility boxes

If determined to be appropriate prior to final approval for the site plan or subdivision plan, the zoning administrator may require screening materials that:

1. Are metal, masonry or other material to match the predominant building material.
2. Abate noise generated by the equipment being screened.
3. Has a height equivalent to the object being screened; antennae shall be screened to the extent possible to permit function.
4. Effectively blocks the view from the ground of the roof-mounted object.

- (d) Waste receptacles

Waste receptacles and refuse collection points shall be screened as described in Section 78-516, *Standards for Refuse Collection and Solid Waste Receptacles*.

#### (H) Permitted Changes in Landscaping Plant Materials

A change in landscaping plant materials may be permitted where unreasonable or impractical situations, as determined by the Town's community forester, would result from application of this Section, 78-503, *Site Landscaping*. Alternative materials or methods may be justified based on field conditions such as pre-existing and unalterable utility easements, or natural conditions, such as streams, natural rock formations, topography, and other physical conditions. The appropriate reviewing authority may approve a change in the required amount of landscaping plant material at the time of site plan or subdivision plan review, limited to the following:

~~The appropriate reviewing authority may approve a change in the required amount of landscaping plant material at the time of site plan or subdivision plan review, limited to the following:~~

**(1) Reduction**

A reduction in the count, spacing, or species diversity requirements which would be more desirable in terms of good landscape planning practice considering the merit of existing vegetation or any adverse effect of new plantings on existing conditions on or near the site.

**(2) Increase in Cumulative Caliper**

Up to a 10 percent reduction in total number of required trees provided that the cumulative caliper size of all trees to be planted meets or exceeds the total caliper inches which would have been provided otherwise.

**(3) Relocation to Public Property**

A reduction by up to five percent in the total number of required trees on a development site provided that all trees not planted on the site are relocated to designated public property as approved by the Town Council. A performance guarantee, consistent with the requirements in Section 78-204, *Performance Guarantees*, shall be posted for all relocated plant materials.

**(I) Other Landscape Standards**

**(1) Planting Standards**

Plantings required by this Section shall comply with the following standards:

**(a) New Plantings**

1. Canopy trees shall be a minimum of three inches in caliper at six inches above ground level at the time of planting. Ornamental trees shall have a caliper of 1½ inches at four inches above grade at time of planting.
2. Evergreen trees shall be a minimum of six feet in height at the time of planting.
3. Shrubs which are upright in nature shall be a minimum of 24 inches in height at the time of planting, and shrubs which are spreading in nature shall be a minimum of 18 inches in diameter at the time of planting.
4. All landscape plant materials shall conform to the latest version of the American Standard of Nursery Stock (ANSI Z60.1, as amended). Plant material shall be of standard quality or better, true to name and type of their species or variety.
5. To curtail the spread of disease or insect infestation in a plant species, new plantings shall comply with the following standards:
  - a. When fewer than 20 trees are required on a site, no more than 50 percent shall be of one type.
  - b. When more than 20 but fewer than 40 trees are required to be planted on site, no more than 33 percent shall be of one single species.
  - c. When 40 or more trees are required on a site, no more than 25 percent of the required trees shall be of a single species.
6. Landscape plant materials shall be planted in accordance with either the standardized landscape specifications adopted by the state nurserymen's association, the state society of landscape

designers, or the state chapter of the American Society of Landscape Architects.

**(b) Existing Vegetation**

1. The applicant shall remove all alien, invasive plants from the property prior to issuance of a Zoning Inspection Permit.
2. Existing healthy, well-formed canopy and under story trees as well as healthy shrubs shall be credited toward the requirements of this Section, provided the vegetation is protected before and during development of the site and maintained thereafter in a healthy growing condition (see Section 78-502(E), *Tree Preservation Credit*).

**(c) Stabilization**

Upon approval of a Landscape Plan for a site pursuant to the requirements of this Section, it shall be stabilized with grass or suitable ground cover and be maintained in a way that is consistent with the approved Landscape Plan.

**(d) Berms**

Berms shall comply with the following design standards:

1. The slope of all berms shall not exceed a 2:1 ratio (horizontal to vertical), shall have a top width at least one-half the berm height, and a maximum height of four feet above the toe of the berm.
2. All berms, regardless of size, shall be stabilized with a ground cover or other suitable vegetation.
3. Berms proposed to be placed along street ROW shall be designed and constructed to provide adequate sight distances at intersections and along all other roads.
4. Berms shall in no case damage the roots of existing healthy vegetation designated to be preserved.

**(e) Easements**

1. Proposed easements shall be located and designed so as to minimize adverse impact on required landscape areas.
2. No material shall be planted or installed within an underground or overhead utility easement or a drainage easement without the consent of the Town.

**(2) Time for Installation of Required Landscaping**

**(a) Time Limit**

All landscaping, including mulching and seeding, shall be completed in accordance with the approved Site Plan or Subdivision Plan, prior to issuance of an Occupancy Permit unless the Zoning Administrator grants an exception to meeting this requirement due to extreme heat, drought, or cold conditions. In this case, an irrevocable letter of credit or other acceptable surety shall be in place to ensure that all landscaping requirements will be met at a predetermined later date. The installation of these requirements shall comply with the required planting standards set forth in this Section.

**(b) Extensions and Exceptions**

The Zoning Administrator may grant exceptions and extensions to the above time limit in the following circumstances and under the following conditions:

1. Exceptions may be granted due to unusual environmental conditions, such as drought, ice, over-saturated soil (deep mud), or inappropriate planting season for the plant species. In such cases, the Zoning Administrator may issue a conditional Occupancy Permit for a period of 30 to 180 days, depending on the Administrator's recommendation for the next earliest planting season.
2. Exceptions may be granted due to the substitution or unavailability of plant species or acceptable plant size as specified on the Landscape Plan in cases where such materials are not commercially available within a reasonable time.
3. Exceptions may be granted due to circumstances beyond the developer's or property owner's control, such as incomplete construction or utility work to occur in a proposed landscaped area within 30 days after expected site completion, provided the developer or property owner submits a letter from the utility company stating the estimated installation date. In such cases, the Zoning Administrator may issue a conditional Occupancy Permit for a defined period not to exceed 30 days.

**(3) Maintenance of Landscaped Areas**

The owner, tenant and their agent, if any, shall be jointly and severally responsible for the maintenance of all landscape areas not in the public right-of-way. Such areas shall be maintained in accordance with the approved site plan and so as to present a healthy and orderly appearance free from refuse and debris. Changes to the approved landscape plan shall require the approval of the zoning administrator. All plant life shown on an approved development plan shall be replaced if, in the opinion of the Town's community forester, it dies or is seriously damaged or is removed.

**78-504 OPEN SPACE**

**(A) Applicability**

The provisions of this Section shall apply to all property within the Town that is subject to the provisions for Preliminary Subdivision Preliminary Plans, Zoning Map Amendments, Special Exceptions, and Site Plans. This Section addresses the character and design of those portions of development that are not occupied by platted lots or streets and that are reserved for parks, trails, landscaping, and open space uses. The standards of this Section apply regardless of whether or not the land involved will be dedicated to the Town, and regardless of whether or not such open space will be open to the public or to other residents of the development

**(B) General Standards**

**(1) Amounts of Open Space Required**

Development shall provide at least the minimum amounts of open space identified in Article III, *Zoning Districts*, in the tables of dimensional standards for residential districts and for business districts, respectively, and in the provisions for planned developments in Article III. "Open Space" is defined in Article VII, *Definitions*.

**(2) Counted as Open Space**

For the purposes of meeting the open space requirement, types of space may include, but are not limited to:

- (a) Areas occupied by required landscaping or features that meet urban forestry requirements;
- (b) Areas, whether in the public right-of-way or on private land, that meet Village Street provisions as described in section 78-511(A) Village Streets.
- (c) Land occupied by outdoor recreational uses such as pools, playgrounds, tennis courts, and jogging trails;
- (d) Vegetated roofs when meeting criteria for eligibility for credits of any kind under the LEED™ Green Building Rating System for New Construction and Major Renovation;
- (e) Land area occupied by stormwater management devices, including retention and detention ponds, sand filters, and other bio-retention devices when not located below ground and when landscaped so as to provide an aesthetic amenity on the site, including at least four of the following:
  - 1. Outside the pond area: plants that are non-invasive and decorative. Plants that may be considered based on the approval of the Urban Forester and the Director of Public Works include:
    - a. Grasses: Warm Season Grasses and wildflower mixes. In wet areas, plant Sweet flag, Yellow Iris and Soft Rush for color and texture;
    - b. Shrubs: Red Chokeberry (*Aronia arbutifolia*), Silky Dogwood (*Cornus amomum*), Arrowwood (*Viburnum Dentatum*), Cranberry bush (*Viburnum trilobum*);
    - c. Trees: Red Maple (*Acer rubrum*), River Birch (*Betula nigra*), Sweet gum (*Liquidambar styraciflua*), various Willows.
  - 2. Edging a pond or in a pond: native wetland plants that screen or enhance the appearance of the facility without obstructing its effectiveness at stormwater management may be used. The facility may be managed as an upland meadow with grass no shorter than six to eight inches. However, the dam embankment, side-slopes, and emergency spillway of an extended detention dry pond or wet pond should be kept free of woody growth.
  - 3. wildlife habitat area;
  - 4. landscape features such as fountains that add value to the device as a visual amenity;
  - 5. decorative fencing around the device, if fencing is required; or
  - 6. features located on a green roof (such as sand filters) when meeting eligibility criteria for credits by the LEED™ Green Building Rating System for New Construction and Major Renovation.

**(3) Not Counted as Open Space**

The following areas shall not be counted as open space:



- (a) Public or private streets or rights of way, including sidewalks, except as may be allowed expressly in this Chapter;
- (b) Stormwater management devices that do not meet the standards in Section 78-504(B)(2)(e);
- (c) Parking areas and driveways for dwellings;
- (d) Land covered by structures of any kind; or
- (e) Designated outdoor storage areas.

**(4) Design Standards**

Land used as open space shall meet the following design standards:

**(a) Location**

Open space is located so as to be readily accessible and useable. Where possible, a portion of the open space should provide focal points for the development.

**(b) Composition**

For uses in areas other than Sectors 1, 2 or 3 of the Herndon Downtown Overlay as described in the "Herndon 2010 Comprehensive Plan", sixty percent of the required open space is "green space" as defined in Article VII, Definitions. To be counted as green space, candidate spaces have no dimension less than seven and one half feet. For uses in Sectors 1, 2 or 3 of the Herndon Downtown Overlay as described in the "Herndon 2010 Comprehensive Plan", thirty percent of the required open space is "green space" as defined in Article VII, Definitions. ~~Green space is permeable area planted with non-invasive plant species. To be counted as green space, candidate spaces have no dimension less than three seven and one half feet. Green space does not include either stormwater management devices or features that reduce the permeability of the soil.~~

**(c) Features to be Preserved**

The required open space is located and organized to include, protect, or enhance as many of the following open areas and features as possible:

1. Natural features such as stream corridors, bluffs, ridges, steep slopes, mature trees (8 inch caliper or greater), rock outcroppings, wetlands, native upland ecosystems, and riparian areas;
2. Landscaped buffers or visual transitions between different types or intensities of land uses;
3. Natural or geologic hazard areas or soil conditions, such as unstable or potentially unstable slopes, expansive soils, or floodplains; and
4. Habitat for endangered species as identified by the Commonwealth of Virginia.

**(C) Ownership and Maintenance**

All open space shall be sufficiently maintained to preserve its value as an aesthetic amenity. For additional provisions about the ownership and maintenance of open space lands, see Section 78-507, *Common areas*.



**78-505 GREEN STREETS****(A) Applicability**

To enhance the townscape, provide areas to augment the sense of an urban forest, calm traffic, promote the safe and orderly operation of vehicles in public rights-of-way, and coordinate the interface of public rights-of-way with private development, the standards of this Section shall apply to development in every zoning district to development that borders the following street segments as identified in the Comprehensive Plan as "Green Streets:"

- (1) Elden Street;
- (2) Herndon Parkway;
- (3) Washington and Old Dominion Railroad Regional Trail;
- (4) Spring Street from the eastern Town boundary ~~west~~ to Van Buren Street;
- (5) Van Buren Street from Spring Street to Elden Street;
- (6) Dranesville Road from the northern Town boundary to Park Avenue; and
- (7) Sterling Road from the western Town boundary to Elden Street.

**(B) Consistency**

Where there is conflict or inconsistency between the provisions of this section, 78-505 Green Streets, and section 78-511(A) Village Streets, the provisions of section 78-511(A) Village Streets, shall prevail.

**(C) Standards**

For development within 25 feet of any "Green Street" other than single family detached dwellings:

- (1) No structure, automobile parking area or other impervious area is located except sidewalks, driveways for ingress and egress, and signs as stipulated in this chapter
- (2) No stormwater management pond is located unless the pond meets the standards for inclusion as "open space" in this Article.
- (3) This area shall be landscaped in accordance with this Article.

**78-506 PRIVATELY PROVIDED RECREATION AREAS****(A) Applicability**

On-site recreational amenities shall be provided in development, redevelopment, or substantial site rehabilitation occurring after the effective date of this Chapter for townhouse, multi-family, and planned development-residential ~~districts. uses.~~ These provisions do not apply to residential uses in Sectors 1, 2 and 3 of the Herndon Downtown Overlay as described in the "Herndon 2010 Comprehensive Plan."

**(B) Standards****(1) Amount**

On-site recreational space shall be provided at the rate of 100 square feet per dwelling. Recreational space provided may be eligible to meet the requirements for open space or green space.

Sample On-site Recreational Amenities and Whether or Not They May be Counted As Meeting the Open Space or Green Space Requirement			
	Open Space	Green Space	Neither open space or green space
Tot lot or playground	√		
Basketball half court	√		
Tennis Court (not enclosed in a structure)	√		
Club house, interior exercise room			√
Trail, paved	√		
Sport field, informal, without any structures or lighting	√	√	
Trail, wood chip or other permeable surface	√	√	
Community vegetable garden area	√	√	
Swimming pool, exterior	√		
Meditation garden with landscape amenities such as a fountain, benches, gazebo	√ (Impervious features such as decorative hard scape or paved pathways)	√ (Planted areas)	√ (Impervious structures such as the fountain or gazebo)

## (2) Configuration of Recreation Uses

The required recreation area shall have no dimension less than 10 feet. It shall be located outside the required buffer area.

## 78-507 COMMON AREAS

## (A) General

As defined in Article VII, common area refers to land and facilities within a development which are intended to be used or enjoyed in common by the residents or owners of the development including, but not limited to, driveways, parking areas, sidewalks on private land, walkways, recreation facilities, trash facilities, lighting, community buildings and open space. Such common area shall be owned, maintained and regulated by an organization created by covenants running with the land that comprises the development. Accordingly, such area shall be conveyed to a nonprofit corporation authorized under the laws of the Commonwealth, with proper agreements, and covenants acceptable to the Town for the development and maintenance of the open land. The members of such nonprofit corporation shall be the owners of all the lots in the subdivision and such land is to be held and used for the recreation purposes for the owners of the subdivision lots. Covenants shall provide that assessments, charges and costs for the maintenance of open space shall constitute a pro rate lien upon the individual lots of the subdivision, second only to taxes, and any bona fide recorded first trust lien on each lot.

**(B) Arrangements****(1) Dedicated to Homeowner's or Property Owner's Association**

Wherever possible, all common areas shall be owned jointly or in common by the owners of the development through a recognized Homeowner's or Property Owner's Association, which should be established in accordance with the following:

(a) The landowner submits documents for the creation of the Homeowners' or Property Owners' Association to the Town for review and approval, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for the common area, including a legal description of such areas;

(b) The landowner agrees that the association is established by the landowner or applicant and will be in operation (with financial subsidization by the owner or applicant, if necessary) before approval of the first ~~final subdivision~~ ~~record~~ plat for the property; and

(c) Membership in the association is automatic (mandatory) for all purchasers of dwelling units, lots, or other structures therein and their successors in title.

**(2) Retained on Private Lots**

Required open space may be allowed on individual building lots only through the use of an easement prohibiting the area from being fenced off and prohibiting future development of the open space. Such open space shall be clearly marked on the site plan or preliminary and final plats for a subdivision.

**(3) Dedicated to Town**

In some cases, certain lands designated as common area, such as floodplains, may be dedicated to the Town during the development review process. The Town Council shall determine which lands and under what conditions such dedications will be accepted by the Town.

**(C) Maintenance**

The owner(s) of the property are responsible for maintenance of all common areas unless dedicated to the Town. If common areas or other community facilities are not maintained consistent with the approved Site Plan, Subdivision ~~Site Preliminary~~ Plan, Zoning Map Amendment, or Special Exception, the Town shall cause such maintenance to be performed and assess the costs to the affected property owner(s) or responsible association.

**78-508 SIGNS****(A) Purpose**

It is the purpose of this article to manage signs, to protect property values, to encourage the most appropriate use of land, to secure safety in the streets, to achieve a more desirable living environment, to protect and enhance the attractiveness of the town as a place of residence, employment and civic activity, and generally to promote the public safety and welfare.

(1) While in some instances signs are erected in conjunction with other uses, they constitute a separate and distinct use of the land upon which they are erected and essentially a use of the visible portion of adjacent public streets, sidewalks,

other public places and private places open to the public. Therefore, it is the purpose of this article to:

- (a) Place such limitations on the display of all signs to ensure that they:
    - 1. Are appropriate to the land, building or use to which they are appurtenant; and
    - 2. Are adequate, but not excessive, for lawfully permitted purposes, such as identification and direction.
  - (b) Prohibit the erection of signs in such numbers, sizes, and locations as may create danger to the public by obscuring road signs, warning signs, lawfully required notices, and other signs essential to the safety and convenience of the public.
  - (c) Prohibit signs which are likely to create unsafe conditions by diverting the attention of motorists from their driving for periods likely to result in accidents.
  - (d) Prohibit signs in such numbers, sizes and locations as may depreciate the value of property and the value and effectiveness of signs erected by others.
  - (e) Prohibit sign structures which are likely to contribute to any of the prohibited conditions mentioned in this section which may create a danger of injury or accidental injury to property because of the difficulty of keeping the signs and their structures in good repair or for other reasons.
- (2) It is further a purpose of this article to avoid excessive competition among sign displays in their demand for public attention, so as to maximize the ability of permitted signs to provide identification and direction and to minimize the clutter and unsightliness to the public in general, and dangerous distractions to the motorists of excessive competitive signage clamoring for attention.

**(B) Applicability**

See Section 78-202(G)(H), *Signs*, for information about the applicability of these standards and procedures for obtaining approval from the Town to erect a sign. All signs, unless specifically exempt (78-202(G)(H)(3), require Town approval prior to display.

**(C) General Standards**

The following standards shall apply within all zoning districts throughout the Town unless otherwise stated.

**(1) Area Computations**

The area of a sign face shall be the area within four straight lines forming a rectangle (a maximum of two abutting or overlapping rectangles may be used) enclosing the extreme limits of writing, representation, pictorial elements, emblems, logos or similar including any material or color of the background of the sign that is used to differentiate the sign from the backdrop or structure provided that:

- (a) The area of a double faced sign shall be the area of one side only provided that the faces are parallel. If one side is larger than the other the larger of the two shall be used to calculate area. If the signs are not parallel the area of each face shall be calculated and counted as sign area.
- (b) The supports, uprights, or structure on which the sign is supported shall not be included in determining the sign area unless such supports, uprights or structure area designed in such a manner as to form an integral background of the display.

**(2) Applicable Building Frontage**

When the size of the sign is controlled by building frontage, applicable building frontage shall not be calculated more than once in determining the permitted sign area.

**(3) Placement of Freestanding Signs**

- (a)** Freestanding signs shall not pose a sight distance danger as determined by the zoning administrator in accordance with Section 78-509, visibility clearance.
- (b)** Unless otherwise provided in this chapter, freestanding signs shall be located a minimum of 15 feet from the abutting public right-of-way; and shall be located a minimum of 25 feet from an abutting side lot line.

**(4) Illumination**

- (a)** Lighting shall be the minimum necessary to be visible at night time and shall not create a distraction or other hazard, such as pinpoint glare, to vehicular traffic.
- (b)** In the case of backlit signs, where permitted, the background shall be designed so that the backlighting only penetrates the letters, logos, symbols, or other message content to reduce unnecessary glare, improve readability at a great distance, and render to the sign itself and the community in general, a more pleasing appearance. In the case of indirect lighting, the source shall be shielded so that it illuminates only the face of the sign.
- (c)** In those zoning districts where the use of exposed neon and other luminous tubing may be permitted, the following restrictions apply:

  - 1. The brightness of neon sign tubing should not be rated at more than 240 lumens per foot.
  - 2. The area and number of such signs shall be included within the permitted sign area for wall signs.
  - 3. A neon sign shall not be visible to any adjacent property zoned R15, R10, or RTC.
  - 4. The Town strongly encourages neon signs to include artistic content such as logos, trademarks, non-text images and other decorative attributes.

**(5) Sign Maintenance and Removal**

- (a)** All signs and components of signs shall be kept in a clean, presentable and legible condition. Any sign that has deteriorated in general appearance and, in the opinion of the zoning administrator, needs to be repainted, refinished or reworked, in order to restore the original appearance, shall be found to be in violation of this section.
- (b)** Any sign which becomes a safety hazard or which is not kept in good general condition and reasonably good state of repair and is not, after 60 days' written notice to the owner of the premises or the permittee, put in a safe and good state of repair, is hereby declared a public and private nuisance and may be removed, obliterated or abated by the zoning administrator of the town. Any sign which, in the opinion of the zoning administrator, constitutes an immediate or imminent danger to life or property may be caused to be removed or put in a safe condition by him immediately. In either case, the costs of the removal/repair may be charged to the owner of the premises where he has been afforded reasonable notice. Any charge so levied shall be collected as a tax and any such charge having been

assessed and which remains unpaid shall constitute a lien against the property as provided in Code of Virginia, title 15.2.

**(6) Off-site Signs**

The zoning administrator may permit one freestanding, off-site sign per multi-establishment building or development (or per establishment when only one establishment is involved), where the town has eliminated or significantly changed (or may do so in the future) public street frontage or public street frontage visibility or access to a public street for the multi-establishment building, development or establishment. The zoning administrator shall resolve the question of whether or not the town has eliminated or significantly altered public street frontage or public street frontage visibility or access. The freestanding, off-site sign may be permitted near the substitute points of public vehicular access to the multi-establishment building, development or establishment. The sign area shall not exceed 24 square feet per sign. The freestanding, off-site sign shall not be mounted on poles, but shall be mounted on a ground-oriented structure. The applicant for this sign shall document to the zoning administrator the consent of the owner of the site of the sign for the location and maintenance of the sign, upon which consent and its continuation, the efficacy of the sign permit depends. The freestanding, off-site sign shall conform to all design and construction requirements imposed by this chapter upon similarly situated signs. If more than one set of limitations apply, the sign shall meet the more stringent standard. The zoning administrator may permit the freestanding, off-site sign in addition to any other signs that have been permitted or could have been permitted under this article or that are lawfully in place under this chapter or general law of this commonwealth.

**(7) Prohibited Signs**

The following signs and attributes are prohibited in all zoning districts unless otherwise stated:

- (a)** All off-site signs are hereby prohibited, unless specifically authorized in this section.
- (b)** Any sign erected on public land other than those erected at the direction of the duly authorized public authority. Any such unlawfully erected sign is subject to immediate removal and disposal by the zoning administrator.
- (c)** Any sign simulating, or which is likely to be confused with, a traffic control sign or any other sign displayed or required by the public authority. Any such sign is subject to immediate removal and disposal by the zoning administrator.
- (d)** Any portable sign and any vehicle sign on a vehicle or motor vehicle parked in a location that is less than 40 feet from a public right-of-way line or in a location that is less than 15 feet from the edge of any buffer strip between a parking area and a public right-of-way, whichever location is farther from a public right-of-way.
- (e)** Any sign that violates any provision of any law of the commonwealth relating to outdoor advertising on streets and highways.
- (f)** Any sign painted directly on a building, except as otherwise provided in this section.
- (g)** Any moving sign intended to attract attention, whether or not any such sign has written message content of which all or any part moves by any means, including fluttering, rotating or otherwise moving, or set in motion by movement of the atmosphere including,

but not limited to, pennants, flags, propellers, discs, etc. This section does not apply to the hands of a clock operating as such.

- (h) Any flashing sign displaying flashing or intermittent lights or lights of changing degrees of intensity.
- (i) Any signs consisting of illuminated tubing or strings of lights outlining property lines or open sales areas, rooflines, doors, windows or wall edges of any building, provided that perimeter shielded down lighting may be used to illuminate open sales and parking areas.
- (j) Any sign attached to living natural vegetation.
- (k) Any sign extending above the roofline of a building or its parapet wall.
- (l) Any sandwich board sign other than those permitted in Section 78-508(F)(2)(b).
- (m) Signs on humans or animals for commercial purposes.
- (n) Unless otherwise permitted or restricted by this chapter, any sign extending more than 20 feet above ground level.

**(D) Signs in Residential Zoning Districts and for Residential Uses in Non-residential or Planned Development Mixed-Use Districts**

**(1) Subdivision, neighborhood or community signs**

One freestanding or wall sign per principal street entrance to a neighborhood, subdivision or community (not to exceed two signs per subdivision, neighborhood or community) shall be permitted with a sign area not to exceed 24 square feet per sign, and the maximum height of the sign structure not to exceed eight feet. The maximum height of the message content shall be limited to six feet. Any void between the background of the sign and its base or finished grade shall not exceed three feet in height. The message content is to be limited to the name of the subdivision, neighborhood or community. Such signs shall be a minimum of five feet from any abutting public right-of-way. Such signs shall not pose a visibility clearance danger as determined by the zoning administrator in accordance with section 78-509.

**(2) Multiple-Family Residential Uses**

The owner of a multiple-family dwelling project may erect a sign with a maximum aggregate sign area of 24 square feet. Such sign may contain only the name and the type of development to be identified. The sign shall be freestanding or mounted on a wall. In either case, the maximum height above finished grade shall be eight feet. Any void between the background of the sign and its base or finished grade shall not exceed three feet in height. Such sign shall be located no closer to the right-of-way line than 15 feet and no closer to another property line than 25 feet. The owner of a multiple-family dwelling project having frontage on two streets may erect two such signs, but shall not erect more than one sign on the same street. Illumination shall be limited to indirect lighting and the source shall be shielded so as to illuminate only the face of the sign and shall not create on or off-site pinpoint glare.

**(3) Nonresidential Uses in Residential Districts**

Nonresidential uses in a residential district may erect one freestanding sign, with a sign area not to exceed 24 square feet per sign, and the maximum height of the sign structure not to exceed eight feet from finished grade. Any void between the background of the sign and its base or finished grade shall not exceed three feet in height. Such sign shall be located no closer to the right-of-way than 15 feet and no closer to another property line than 25 feet. A nonresidential use having frontage on two streets may erect one sign on each frontage. In no event

may the nonresidential use erect more than two such freestanding signs. When changeable message boards are used, the message content may be changed without additional authorization. With the exception of changeable message signs, which may be internally illuminated, illumination shall be limited to indirect lighting and the source shall be shielded so as to illuminate only the face of the sign and shall not create on or off-site pinpoint glare.

Nonresidential uses in a residential district may erect one wall sign with a sign area not to exceed 24 square feet per sign, on each principal building. The maximum height of the wall sign shall not exceed ten feet from finished grade if the sign faces adjacent residential uses or residentially zoned vacant property. If the sign does not face adjacent residential uses or residentially zoned vacant property, the height of the sign shall not exceed 20 feet in height from finished grade. Illumination shall be limited to reverse channel letters with halo illumination or indirect lighting. In the case of indirect lighting the lighting source shall be shielded so as to illuminate only the face of the sign and shall not create on or off-site pinpoint glare.

**(4) Bed and Breakfast Establishments**

Bed and breakfast establishments may erect one freestanding sign on the property, with a sign area not to exceed two square feet per sign, and the maximum height of the sign structure not to exceed eight feet from finished grade. The vertical distance between the bottom of the sign board and the finished grade shall not exceed five feet in height. Such sign shall be located no closer to the right-of-way than 10 feet and no closer to another property line than 12 feet. Changeable message boards are not permitted. Illumination shall be limited to indirect lighting and the source shall be shielded to illuminate only the face of the sign and shall not create on or off-site pinpoint glare. The sign shall be placed on the property in conformance with the standards of Section 78-509, Visibility Clearance.

**(E) Signs in the Commercial Service, Commercial Office, Planned Development – Business, Office and Light Industrial, and Planned Development – Worldgate Zoning Districts**

**(1) Freestanding signs**

- (a)** Each development, regardless of the number of buildings or tenants, is permitted one freestanding sign per street frontage when there is a minimum of 150 linear feet of frontage. Freestanding signs are not permitted on a street frontage of less than 150 linear feet.
- (b)** The sign area is permitted at a rate of one square foot per each linear foot of building frontage along the street frontage in question, up to a maximum aggregate sign area of 50 square feet.
- (c)** Freestanding signs shall not be mounted on poles, but shall be mounted on a ground-oriented structure.
- (d)** The maximum permitted combined height of the structure and sign is 12 feet. The maximum permitted height of message content is eight feet.
- (e)** To permit instantaneous recognition by the operator of a motor vehicle, lettering shall be a minimum of six inches in height.
- (f)** For shopping centers and other multi-tenant structures and developments, the maximum aggregate sign area for any and all tenant or occupant signs shall not exceed 50 percent of the total sign area permitted under the terms of this section.



**(2) Wall Signs and Window Signs**

- (a)** The sign area of a wall sign is permitted at a ratio of one square foot of sign area to each linear foot of building frontage or establishment frontage on which the sign is to be displayed. A maximum of 150 square foot per sign is permitted, provided that the maximum aggregate wall sign area does not exceed 250 square feet per building, except as otherwise provided in accordance with an approved master sign plan.
- (b)** Buildings or establishments with frontage of less than 25 linear feet shall be allowed a maximum of 25 square feet of wall sign area, provided that the aggregate wall sign area does not exceed 250 square feet per building, except as otherwise provided in accordance with an approved master sign plan.
- (c)** Exterior wall signs shall be affixed directly on the wall, shall project no more than 18 inches there from.
- (d)** Exterior wall signs and window signs shall not exceed a height of 20 feet above finished grade except as provided in this section for multi-story office buildings.
- (e)** Multistory buildings, with or without ground floor retail uses, that exceed 35 feet in height above finished grade are permitted to display at a height exceeding 20 feet above finished grade two wall signs (which are not window signs) on each building frontage. In the O&LI district, building frontage for this purpose shall include any building facade that features the building's primary public entrance and excluding: emergency exits, service entrances, secondary public entrances, and any building facade facing abutting land zoned residential. The signs shall be placed a minimum of 175 feet apart, measured on the respective building frontage and shall be included within the maximum 250 square foot sign area limitation per building.
- (f)** No window sign or combination of window signs shall exceed 25 percent of the aggregate window area. No window sign shall have an area exceeding 25 square feet and no window sign may block visibility through a single window by more than 50 percent.
- (g)** All window signs shall be included in the permitted wall sign area except as provided for master sign plans.
- (h)** Buildings or establishments with frontage of less than 25 linear feet shall be allowed a maximum of 25 square feet of window sign area in addition to the establishment's maximum wall sign area of 25 square feet. The additional window sign area shall be included within the maximum 250 square foot sign area limitation per building.
- (i)** Buildings or establishments with frontage of less than 25 linear feet shall not display any single neon window sign exceeding ten square feet in sign area.

**(3) Miscellaneous Signs**

- (a)** Theater marquees containing changeable message content shall be permitted up to 48 square feet in addition to the otherwise permitted sign area for that use. Such marquees shall otherwise conform to the requirements of this article.
- (b)** Directory signs are permitted, in addition to the signs permitted elsewhere in this article, in multiple building complexes or shopping centers, out of doors, where not visible to the motoring public, upon specific approval of the architectural review board. Freestanding directory signs may be located near parking areas and at principal intersections within the site, but shall be a minimum of 50 feet from any public right-of-way.

- (c) Motor vehicle fuel price signs, one per parcel or lot, shall be permitted in addition to the signs permitted elsewhere in the article, for those merchants engaged in the retail sale of motor vehicle fuel. Such signs are not to be mounted on poles, but shall be mounted on a ground-oriented structure, and must be clearly visible from both directions of street traffic. The maximum sign area is limited to 20 square feet. Except as specifically permitted in this section, motor vehicle fuel price signs shall conform to all requirements of this article.

**(F) Signs in the Central Commercial and Planned Development - Downtown Zoning Districts**

The standards of this section apply for uses contained in Sectors 1 through 6 of the Herndon Downtown as identified in the Herndon 2010 Comprehensive Plan adopted June 19, 2001, as may be amended from time to time.

**(1) Review Board**

For the purpose of aiding in implementing the intent of these districts, the architectural review board or the heritage preservation review board, as appropriate, must first approve the number, style, color, location, and size, type of illumination and materials of all signs to be erected in these districts. Regarding sign size, the board may require a sign to be smaller than the maximum permitted by this article for purposes of achieving appropriate scale in relation to the building and its surroundings.

**(2) Freestanding**

- (a) One freestanding sign with a maximum height of eight feet and maximum area of 24 square feet shall be permitted on any parcel having a nonresidential or multiple-family use in these districts. The sign shall be placed in accordance with setback regulations established for the district in which it is located, and shall be placed no closer than eight feet to an abutting side lot line.
- (b) One sandwich board sign may be approved in writing by the zoning administrator, in accordance with Section 78-202(G)(7), or for each building in the CC of PD-D District and for which a freestanding sign is not permitted provided that all of the following criteria are met:
1. No more than one such sign will be displayed;
  2. The colors, design, and content are consistent with the statement of intent of the zoning district within which it is located;
  3. Each sign face does not exceed 12 square feet in total area;
  4. The total area of each side of the sign structure (including legs) is the same and does not exceed three feet in width and four feet in height, with no extensions or projections;
  5. The sign will not be located closer than five feet from a side lot line;
  6. If located in a public right-of-way adjacent to the building in which the business is located, at least six feet of clear sidewalk width will be maintained;
  7. The sign will not be located within a parking area, interfere with any sight distance area, or obstruct the loading or unloading of any passenger or commercial vehicle;
  8. The sign information will be permanently affixed to the faces of the sign, and each face shall contain the same information (message content may be changed without additional approvals);

9. The sign will be made of wood and constructed in a sturdy manner;
10. The sign will not be illuminated in any manner;
11. The sign will be displayed only when the business is open and stored indoors at all other times;
12. The Zoning Administrator or designee may order the removal of the sign if the Zoning Administrator finds that the sign violates any of the regulations contained within this Chapter; and
13. Such sign located within a public right-of-way or public access easement may be removed without notice if the Town Manager or designee finds that the sign is a public nuisance, creates a safety hazard, or if it is in the way of town operations.

**(3) Wall and Window Signs**

- (a)** Sign area shall be permitted on a basis of one square foot of sign area per linear foot of building frontage on a public street. In the case of a corner lot, each street frontage shall be used for individual calculations of permitted sign area for the respective frontage. Unless otherwise restricted, the maximum allotted sign area for signs requiring a permit in these districts shall be 50 square feet per establishment.
- (b)** Permanent window signs shall not obscure more than 20 percent of the glass area and shall not exceed a height of 20 feet above finished grade.
- (c)** Exterior wall signs shall not exceed a height of 15 feet above finished grade or the sill of the second story windows, whichever is lower, except as provided in this section for multistory office buildings.
- (d)** Multistory office buildings, with or without ground floor retail uses, which exceed 35 feet in height above finished grade are permitted to display at a height exceeding 20 feet above finished grade up to two wall signs (which are not window signs) on each building frontage. Such signs shall be included within the maximum square foot sign area limitation per building.

**(4) Projecting Signs**

Signs may project over the public right-of-way, provided that they do not become a hazard or a public nuisance. No sign shall project more than four feet from the face of the building. Such signs shall not exceed 10 square feet in sign area and shall be a minimum of nine feet from sidewalk grade. The sign area of projecting signs shall be included in the establishment's permitted sign area.

**(G) Master Sign Plan**

- (1) Within any business district (CC, CS, CO, O&LI, PD-W, PD-B, and PD-D) any non-residential development in which two or more individual establishments are located may request the approval of a Master Sign Plan for window and wall signs pursuant to Section 78-202(G)(H)(4), Sign Permit and Master Sign Permit.
- (2) A Master Sign Plan establishes a uniform façade and design detail plan for all window and wall signs requiring permits that are to be used on the building(s) and within the development. The elements established in a uniform façade and design detail plan include colors, materials, aesthetic balance and composition, height and width, area, placement, and typeface, as well as the use of any symbols, designs, and logos.
- (3) Master Sign Permits allow that:
  - (a) The maximum aggregate sign area of all wall signs in a Master Sign Plan may exceed 250 square feet per building based upon frontage, but shall not exceed one square foot of signage for every linear foot of frontage.
  - (b) Arcade signs not to exceed two square feet per establishment are permitted.
  - (c) The definition of the term frontage for the purpose of calculating sign area is expanded to include any building façade that contains a public entrance. Service entrances or emergency exits shall not constitute a public entrance.
  - (d) Each ground floor establishment with 25 feet or more of establishment frontage may install up to 25 square feet (aggregate area) of additional non-temporary window signs.

**(H) Master Sign Plan Conformance Permit**

To ensure window and wall signs erected by an individual establishment in a development subject to a Master Sign Plan conform to the approved Master Sign Plan Permit, each individual establishment shall have a Master Sign Plan Conformance Permit approved pursuant to the requirements of Section 78-202(G)(5) prior to the erection or construction of any window or wall signs. Master Sign Plan Conformance Permits shall be subject to the administrative review process and shall not require an application for review by the Architectural Review Board or Heritage Preservation Review Board unless found by the Zoning Administrator not to conform to the approved Master Sign Plan Permit.

**(I) Modification from Master Sign Plan for Individual Establishment**

To provide flexibility in the administration of an approved Master Sign Plan, individual establishments subject to the Master Sign Plan may request the review board that approved the Master Sign Plan to modify the Master Sign Plan requirements for the individual establishment (Modification from Master Sign Plan for Individual Establishment) pursuant to the requirements of Section 78-202(G)(6).

**(J) Temporary Signs**

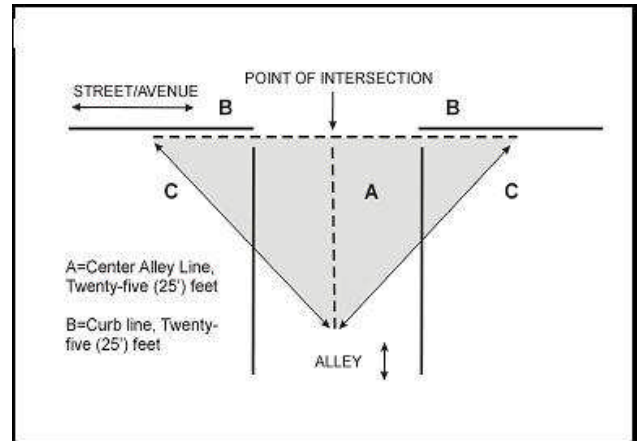
The Zoning Administrator may permit establishments to erect and display the following temporary signs with the granting of an Administrative Sign Approval, in accordance with the provisions of Section 78-202(G)(7):

- (1) One special event temporary sign (see "Sign, Temporary") not to exceed 24 square feet displayed for no more than 45 consecutive days.
- (2) An emergency temporary sign (see "Sign, Temporary") not to exceed 24 square feet displayed for no more than 90 consecutive days. An emergency temporary

- sign that replaces an approved sign or signs may be constructed of a different material and erected in a different location from the approved sign.
- (3) Up to two signs, the combined area of which shall not exceed 50 square feet, in conjunction with a temporary use reviewed pursuant to Section 78-202(F)(3)(f).

#### 78-509 VISIBILITY CLEARANCE

Fences, walls, trees, shrubs, or other visual barriers over three feet in height above grade shall be placed in such a manner as to enable and ensure the ongoing the view of pedestrians on the sidewalk and traffic vision at intersections.



For intersecting streets, the Public Works Director shall determine the visibility clearance requirement based upon accepted engineering standards for requiring adequate sight distance.

Accordingly, For a driveway or alley intersecting a street, no visual obstruction over three feet in height above grade shall be permitted within the 25 feet sight distance triangle created at the intersection of an alley and street. The triangle is measured from a point where the curb line and the center line of the alley meet. The distance from this point shall be 25 feet along the street curb line ("B") and 25 feet along the alley center line ("A"). The third side of the triangle ("C") connects these two sides, creating the sight distance triangle. Similarly, ~~(1) no visual obstruction over three feet in height above grade shall be permitted within the six feet sight distance triangle created at the intersection of a garage entrance and alley, and (2) no visual obstruction over three feet in height above grade shall be permitted within the 10 feet sight distance triangle created at the intersection of a driveway and street.~~

#### 78-510 LANDMARK BUSINESS

##### (A) Applicability

As an option, these provisions shall apply to any development within 1,500 feet of the northern boundary of the Dulles Toll Road or the western boundary of the Fairfax County Parkway when the development is located within the Commercial-Office District, the Office and Light Industrial District, or the Planned Development – Business District. These provisions are established to allow development that provides a regional presence and convenient access on major thoroughfares as long as associated impact is mitigated as noted.

**(B) Increase in Height and Floor Area**

An increase in height over the height and floor area ratio allowed in Table 78-302(B) *Table of Dimensional Standards in the Business Zoning Districts*, may be permitted by a Special Exception in accordance with Section 78-202(C), *Special Exception*, provided that:

- (1) The resulting Floor Area Ratio on the site does not exceed 1.0;
- (2) The height of the building does not exceed 100';
- (3) The setback of the building is at least equivalent to the height of the building as provided in Table 78-302(B) *Table of Dimensional Standards in the Business Zoning Districts*;
- (4) A minimum of 50 percent of the site that is the subject of the special exception is open space;
- (5) Floodplain areas on the subject property may be dedicated to the Town and count toward the required open space and green space if meeting applicable standards.
- (6) No part of the structure or building on the site is located less than 500 feet from residential development or undeveloped land within a residential zoning district;
- (7) No part of a building on the site is located more than 1,500 feet from the northern boundary of the Dulles Toll Road or from the western boundary of the Fairfax County Parkway;
- (8) Transportation Demand Management Techniques are used to reduce the traffic impact of the increase in building floor area; and
- (9) At least 50 percent of the parking spaces for the structure or building are located inside a structure or building.

**78-511 DOWNTOWN**

These requirements shall apply to any development in any zoning district in Sectors 1, 2 or 3 of the Herndon Downtown Overlay as described in the "Herndon 2010 Comprehensive Plan" (June 19, 1990), as amended and as may be amended.

**(A) Village Streets**

All sites shall be developed in accord with *the "Village Streets Overlay Policy"* (October 22, 1991), as amended, and as may be amended, of the "Herndon 2010 Comprehensive Plan" (June 19, 1990), as amended and as may be amended. Village Streets improvements that are made by an applicant as part of an approved development application may be counted toward the open space requirement for the lot.

**(B) Height**

Building facades shall not be less than 20 feet in height as measured from the finished grade of the abutting public sidewalk to the top of the parapet on flat-roofed buildings or to the eave of pitched roof buildings. See Section 78-302, *Business Districts* for additional height provisions.

**(C) Setback**

- (1) Setback shall be sufficient to provide for a sidewalk or other streetscape improvements of a minimum of 12 feet in width.
- (2) The 12-foot sidewalk or other streetscape improvements shall be provided and shall be located within the public right-of-way or on private property with a public street easement or within a combination of both.
- (3) Landscaping and lighting structures are permitted in the setback area, if it is determined by the Zoning Administrator they are safe, do not impede pedestrian

access and convenience, and are consistent with the Herndon Heritage Preservation Handbook, revised July 1990. Off-street parking and loading areas are prohibited in the setback area.

(4) When a nonresidential streetscape abuts a residential streetscape or a sidewalk outside of the Downtown, a smooth transition shall be provided between the two different types of sidewalks.

(5) Buildings shall abut the public sidewalk or other streetscape improvements, or a pedestrian plaza or landscaped area open to the public, located between the sidewalk and the building.

(6) Drive-aisles shall not be permitted between the sidewalk and the building.

(7) Parking is not permitted within ten feet of any street right-of-way, (including sidewalks), unless it is located directly behind the rear facade of the primary building. When parking is not located behind the rear facade of the building, the parking shall be screened from the adjacent street by a four-foot high solid, wall and by landscaping.

**(D) Pedestrian Travel**

The primary mode of transportation in the downtown is intended to be pedestrian travel. To facilitate safe and convenient pedestrian traffic within the downtown, pedestrian ways, alleys, convenience areas and rest areas shall be provided as needed, to provide connecting pedestrian ways. Not more than 10 percent of the lot area may be required for this purpose.

**(E) Solid Waste Receptacles**

Solid waste receptacles shall be provided in accordance with the provisions of Section 78-516, Standards for Refuse Collection and Solid Waste Receptacles.

**(F) Transitional sites**

Where a side or rear yard of a commercial use abuts residential zoned property, a six-foot high masonry wall shall be provided to act as an effective barrier between the commercial and residential district.

**78-512 DOWNTOWN TRANSITION AREAS**

**(A) Applicability**

The standards in this Section shall apply to all uses (except as noted) located within 1,250 feet of existing and future lands zoned Central Commercial District (CCD) and Planned Development - Downtown (PD-D) District. These standards are designed to ensure that infill development or redevelopment in existing developed areas of the Town is consistent with the established character and scale of those areas. Use standards in Article IV may also apply. Where any conflict or inconsistency may exist between these standards and other provisions in this chapter, the more restrictive provisions shall apply.

**(B) General Standards**

**(1) Off-street Parking for Nonresidential Uses**

Off-street parking is located to the side or rear of buildings.

**(2) Building Setbacks for All Uses**

The front and side yard setbacks are within 25 percent of the average of the existing setbacks of residential structures found along the block face, except that more shallow front setbacks may be approved for commercial corner locations or

other commercial lots if it is demonstrated that the configuration provides a better transition to adjacent residential areas.

**(3) Building Footprint for All Uses**

The building footprint area of any single structure does not exceed 50 percent of the average size of the residential structures found along the same block face. This standard does not apply to public buildings.

**(4) Height for All Uses**

The maximum height of new development adjacent to residentially zoned land does not exceed one and one half times the average height of the adjacent residential structures.

**(5) Building Facades for All Uses**

The width of front facades is not more than 150 percent or less than 30 percent of the average width of residential buildings along the block facing the street. The front façade of a new structure is consistent in terms of orientation, with buildings in the surrounding area (with respect to being either parallel or perpendicular with its associated street)

**78-513 SINGLE LOT DEVELOPMENT**

**(A) Applicability**

~~Development of homes, replacement of homes, or enlargement of homes by amount greater than one quarter the area of the building or 500 square feet, which ever is less, on individual residential lots (single family detached or duplex lot by lot development) must be in accordance with the requirements of this chapter, regardless of when the lot was created. These standards apply to single lot development plans. Provisions for the submittal and review of single lot development plans are described in Section 78-202(F)(3).~~

**(B) Standards**

**(1)** Development and redevelopment of lots shall include the provision of curb, gutter, sidewalk and on-site drainage improvements. A waiver from the Town Council, acting by ~~resolution~~ ordinance, may be requested and considered ~~for the curb, gutter and sidewalk improvements if at least one of the following criteria is~~ are met:

**(a)** Provision of curb and gutter along the street would cause the subject property to become the only lot in the neighborhood with curb and gutter; ~~or and~~

**(b)** The street on which the subject property fronts is not on the Town's plan for installation of curb and gutters.

**(2)** In lieu of providing the curb, gutter, and sidewalk ~~and on-site drainage~~ improvements, the applicant shall, unless this requirement is waived by the Town Council in accordance with subparagraph 78-513(B)(1), at the applicant's option, make a cash contribution to the Town's street improvement program equivalent in value to the cost of installing the improvements. After consultation with other Town staff, the Zoning Administrator shall ~~determine~~ make the final determination about the value of the cash contribution using recognized standards.

**(3)** Neither the cost of installing the improvements nor the value of the cash contribution shall exceed five percent of the value of the sum of all other lot improvements.

**(4)** Development shall comply with the Town's Public Facilities Manual (Section 1-16, *Standards for public improvements adopted by reference.*)



**78-514 DEVELOPMENT WITHIN THE HERITAGE PRESERVATION OVERLAY DISTRICT**

Development located within a preservation district shall be completed in accordance with the Herndon Heritage Preservation Handbook, and the following:

**(A) Alteration, Restoration or Reconstruction**

A Certificate of Appropriateness for altering, restoring, or reconstruction of a building or structure shall be approved only after considering the following standards, as well as other appropriate matters:

- (1) Whether or not reasonable effort shall be made to alter the site, building, or structure, and its environment to the minimal extent practicable.
- (2) Whether or not alteration of the original distinguishing qualities or character of a site, building, or structure and its environment and the removal or alteration of any historic material or distinctive architectural features shall be avoided to the greatest extent practicable.
- (3) Whether or not all sites, buildings and structures shall be recognized as products of their own time, with alterations and reconstruction to existing buildings and structures to be consistent with the original style of such buildings and structures.
- (4) Whether or not distinctive stylistic features or examples of skilled craftsmanship that characterize a building or structure or site shall be retained and restored to the greatest extent practicable.
- (5) Whether or not deteriorated architectural features shall be repaired, rather than replaced, wherever reasonably possible, and, if replacement is necessary, whether or not new materials shall match the material being replaced in composition, design, color, texture and other visual qualities to the greatest extent practicable.
- (6) Whether or not repair or replacement of missing architectural features shall, to the greatest extent possible, be based on accurate duplications of the original features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- (7) Whether or not the surface cleaning of buildings and structures constituting historic landmarks shall be undertaken with the gentlest means practicable; provided, however, that sandblasting and other cleaning methods that may damage the existing building materials shall not be approved.
- (8) Whether or not partial demolition of buildings or structures within preservation districts may be approved when one or more of the existing facades are retained for the purpose of integrating new construction into existing historic buildings or structures when such is appropriate and in accordance with the intent of this article. The Town does not advocate this procedure, as it goes against the Secretary of the Interior's guidelines for rehabilitation and credits would not be allowed in such projects.
- (9) Whether or not, to the greatest extent practicable, every effort shall be made to protect and preserve archeological resources within or adjacent to the Heritage Preservation Overlay District.
- (10) Whether or not contemporary design for alterations and additions to existing buildings and structures is compatible with the size, scale, color, material, and character of the building and structures within preservation districts, and whether or not such alterations and additions would destroy significant historical, architectural, or cultural material.
- (11) Whether or not the proposed additions or alterations to existing buildings and structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the building or structure would be unimpaired. Whenever possible, new additions or alterations to existing buildings and structures shall be done in such a manner

that, if such additions or alterations were to be removed in the future, the essential form and integrity of the building or structure would be unimpaired.

**(B) New Construction**

A Certificate of Appropriateness for new construction of a building or structure may be approved only after considering the following standards, as well as other appropriate matters:

- (1) Whether or not the design will be architecturally compatible with the historic landmarks, buildings, and structures in the Heritage Preservation Overlay District in terms of size, scale, color, material, and character.
- (2) No specific architectural style shall be adopted or imposed in the administration of this Section.

**(C) Moving or Relocating a Building**

A Certificate of Appropriateness to move or relocate a building or structure may be approved only after considering the following, as well as other appropriate matters:

- (1) Whether or not the proposed relocation may have a detrimental effect on the structural soundness of the building or structure;
- (2) Whether or not the proposed relocation would have a negative or positive effect on other historic landmarks or on other sites, buildings or structures located within the Heritage Preservation Overlay District;
- (3) Whether or not the proposed relocation would provide new surroundings that would be compatible with the architectural aspect of the building or structure;
- (4) Whether or not the proposed relocation is the only practicable means of saving the structure from demolition; and
- (5) Whether or not the building or structure will be relocated to another site within the corporate limits of the town or to another adjacent site that is subject to preservation control.

1           **(D)     Demolition**

2           A Certificate of Appropriateness to demolish a building or structure may be approved,  
3           only after reviewing and considering the circumstances and conditions of the structure or  
4           building or the part proposed for demolition, and considering the following factors as well  
5           as all other appropriate matters:

- 6           **(1)**     Whether or not the building or structure is an historic landmark or is a building  
7                   within the Heritage Preservation Overlay District that contributes to the character  
8                   of the Heritage Preservation Overlay District;  
9           **(2)**     Whether or not the building or structure is of such interest or significance that it  
10                  would qualify as a national or state landmark building or structure listed on the  
11                  National Register of Historic Places or the Virginia Landmarks Register;  
12           **(3)**     Whether or not the building or structure is of such old or uncommon design,  
13                  texture or scarce material that it could not be reproduced or could be reproduced  
14                  only with great difficulty and expense;  
15           **(4)**     Whether or not historic events occurred in the building or structure;  
16           **(5)**     Whether or not the building or structure is structurally unsound and to what  
17                  extent;  
18           **(6)**     Whether or not a relocation of the building or structure or a portion thereof would  
19                  be to any extent practicable as a preferable alternative to demolition;  
20           **(7)**     Whether or not the proposed demolition could potentially adversely affect other  
21                  historic landmarks located within a preservation district or adversely affect the  
22                  character of a preservation district;  
23           **(8)**     If a building is damaged by a fire or other natural hazard, the building inspector  
24                  shall determine if a building is structurally sound and is in imminent danger to  
25                  public safety and should be demolished;  
26           **(9)**     The reason for demolishing the building or structure and whether or not any  
27                  alternatives to demolition exist;  
28           **(10)**    Whether or not there has been a professional, economic, and structural feasibility  
29                  study for rehabilitating or reusing the structure and whether or not its findings  
30                  support the proposed demolition.  
31

32           **78-515 PERFORMANCE STANDARDS**

33           **(A)     General**

34                  **(1)     Applicability**

35                   The performance standards in this section apply town wide.  
36

37                  **(2)     Nonconformities**

38                   The fact that the operations of a lawful use violate the performance standards of  
39                   this article shall not of itself make such use subject to the requirements of this  
40                   chapter relating to nonconformities.  
41

42           **(B)     Residential Protection Standards**

43           As a condition of the approval of any nonresidential use located adjacent to residential  
44           uses, conditions may be applied to reduce or minimize any potential adverse impacts on  
45           residential property. Such conditions may include but are not limited to:

- (1) Hours of operation and deliveries;
- (2) Location on a site of activities that generate potential adverse impacts on adjacent uses such as noise and glare;
- (3) Location of loading and delivery areas;
- (4) Lighting location, intensity, and hours of illumination;
- (5) Placement and illumination of outdoor vending machines, telephones, or similar outdoor services and activities;
- (6) Additional landscaping and buffering to mitigate adverse impacts;
- (7) Height restrictions to preserve light and privacy and views of significant features from public property and rights of way;
- (8) Preservation of natural lighting and solar access; and
- (9) Ventilation and control of odors and fumes.

**(C) Noise**

**(1) Required performance level**

No operation or activity shall cause or create noise in excess of the sound levels prescribed in this division.

**(2) Method of measurement**

(a) For the purpose of measuring the intensity and frequency of sound, the sound level meter, the octave band analyzer, and the impact noise analyzer shall be employed. The flat network and the fast meter response of the sound level meter shall be used. Sounds of short duration as from forge hammers, punch presses and metal shears which cannot be measured accurately with the sound level meter shall be measured with the impact noise analyzer.

(b) Octave band analyzers calibrated in the preferred frequencies (American Standards Association S1.6-1960, Preferred Frequencies for Acoustical Measurements) shall be used with Tables.

(c) For impact sounds measured with the impact noise analyzer, the sound pressure levels set forth in Table 78-515(B)(4)(a) and Table 78-515(B)(4)(b) may be increased by six decibels in each octave band.

**(3) Exemptions**

The following uses and activities shall be exempt from the noise level regulations of this division:

- (a) Noises not directly under the control of the property users.
- (b) Noises emanating from construction and maintenance activities between 7:00 a.m. and 6:00 p.m.
- (c) The noises of safety signals, warning devices and emergency pressure relief valves.
- (d) Transient noises of moving sources such as automobiles, trucks, airplanes and railroads; provided, however, that noises of motor vehicles whose travel either originates or terminates at the use subject to these standards, shall not be exempt and shall be included in determining whether or not such use complies with the standards of this division.

**(4) Standards for All Non-Residential Uses**

**(a) *At Boundaries Adjoining lots Used for Residential or Lots that are Vacant and Zoned for Residential***

For non-residential uses, at no point on or beyond the boundary of a lot used for residential or a lot that is vacant and zoned for residential shall

the sound pressure level resulting from any use, operation or activity exceed the maximum permitted sound levels as set forth in Table 78-515(B)(4)(a) of this section.

**TABLE 78-515(B)(4)(a): MAXIMUM PERMITTED SOUND LEVELS AT NON-RESIDENTIAL LOT LINES ADJOINING RESIDENTIAL USES OR VACANT LAND ZONED FOR RESIDENTIAL**

PREFERRED FREQUENCIES		PRE-1960 OCTAVE BANDS	
CENTER FREQUENCY, CYCLES PER SECOND	MAXIMUM PERMITTED SOUND PRESSURE LEVEL (DECIBELS)	OCTAVE BAND, CYCLES PER SECOND	MAXIMUM PERMITTED SOUND PRESSURE LEVEL (DECIBELS)
31.5	65	20 – 75	67
63	63	75 – 150	62
125	62	150 – 300	57
250	57	300 – 600	51
500	51	600 – 1,200	47
1,000	46	1,200 – 2,400	39
2,000	37	2,400 – 4,800	29
4,000	26	4,800 – 10 KC	20
8,000	17		

**(b) At Lot Lines Between Non-Residential Uses**

For non-residential uses adjoining other non-residential uses, at no point on or beyond the boundary of any lot shall the sound pressure level resulting from any use, operation or activity exceed the maximum permitted decibel levels for the designated octave bands as set forth in Table 78-515(B)(4)(b) of this section.

**TABLE 78-515(B)(4)(b): MAXIMUM PERMITTED SOUND LEVELS AT LOT LINES BETWEEN NON-RESIDENTIAL USES**

PREFERRED FREQUENCIES		PRE-1960 OCTAVE BANDS	
CENTER FREQUENCY, CYCLES PER SECOND	MAXIMUM PERMITTED SOUND PRESSURE LEVEL (DECIBELS)	OCTAVE BAND, CYCLES PER SECOND	MAXIMUM PERMITTED SOUND PRESSURE LEVEL (DECIBELS)
31.5	76	20 – 75	75
63	74	75 – 150	70
125	68	150 – 300	64
250	63	300 – 600	59
500	57	600 – 1,200	53
1,000	52	1,200 – 2,400	47
2,000	45	2,400 – 4,800	40
4,000	38	4,800 – 10 KC	34
8,000	32		

**(D) Earthborn Vibration Standards**

**(1) Required performance level**

No activity or operation shall cause or create earthborn vibrations in excess of the displacement values given in this section.

**(2) Method of measurement**

Measurements shall be made at or beyond the adjacent lot line or the nearest residence district boundary line, as described in this division. Vibration displacements shall be measured with an instrument capable of simultaneously measuring in three mutually perpendicular directions. The maximum permitted displacements shall be determined in each zoning district by the following formula:

$$D = K/f$$

In which D = displacement in inches, K = a constant to be determined by reference to Table 78-515(C)(3) in this section, and f = the frequency of vibration transmitted through the ground in cycles per second.

**(3) Standards For All Non-Residential Uses**

The maximum earth displacement permitted at the points described in this section shall be determined by use of the formula in this section and the appropriate K constant shown in Table 78-515(C)(3) of this section.

**TABLE 78-515(C)(3): VALUES OF "K" TO BE USED IN THE VIBRATION FORMULA**

LOCATION	ON OR BEYOND ANY ADJACENT LOT LINE (K)	ON OR BEYOND ANY RESIDENTIAL DISTRICT BOUNDARY LINE (K)
Continuous	0.015	0.003
Impulsive	0.030	0.006
Less than 8 Pulses per 24-Hour Period	0.075	0.015

**(E) Smoke and Particulate Matter Standards**

**(1) Required Performance Level**

No operation or activity shall cause or create the emission of smoke from any vent, stack, chimney, flue or other opening that exceeds the density or equivalent opacity prescribed in this division. The total emission of particulate matter from all vents, stacks, chimneys, flues or other openings of any process, operation or activity shall not exceed the particulate matter limitations prescribed in this division.

**(2) General Limitations**

**(a)** Particulate matter emissions caused by the wind from open storage areas, yards, roads, etc., shall be kept to a minimum by appropriate landscaping, paving, oiling, wetting or other means.

**(b)** No operation shall cause or allow to be emitted into the open air from any process or control equipment or to pass any convenient measuring point in a breaching or stack particulate matter in the gases that exceeds 0.60 pounds per 1,000 pounds of gases during any one hour.

**(3) Method of Measurement**

- (a)** Smoke. For the purpose of determining the density or equivalent opacity of smoke, the Ringelmann Chart as adopted and published by the United States Bureau of Mines in Information Circular No 8333 shall be employed.
- (b)** Particulate matter. Particulate matter loadings in pounds per acre described in this section shall be determined by selecting a continuous four-hour period which will result in the highest average emission rate. In computing pounds per acre, the gross area of the zoning lot on which the use is located shall be employed.

**(4) Standards for All Non-Residential Uses**

- (a)** Smoke. The continuous emission of smoke from any vent, stack, chimney or combustion process shall not exceed a density or equivalent opacity of Ringelmann No. 1. Smoke exceeding Ringelmann No. 1, but not exceeding Ringelmann No. 3, shall be permitted up to six minutes during any four-hour period. Smoke in excess of Ringelmann No. 3 is prohibited.
- (b)** Particulate matter. The emission of particulate matter from all vents, stacks, chimneys and openings of any operation shall not exceed 0.2 pounds per hour, per acre.

**(F) Toxic Matter Standards**

**(1) Required Performance Level**

No operation or activity shall cause or create the emission of toxic matter in amounts or quantities that exceed the levels prescribed in this division.

**(2) Method of Measurement**

In determining the maximum permissible concentration allowed an industrial worker, the most recent listing of threshold limit values published by the American Conference of Governmental Industrial Hygienists shall be used. If a toxic substance is not contained in the most recent listing of threshold limit values published by the American Conference of Governmental Industrial Hygienist, then the applicant shall produce sufficient and satisfactory evidence showing that the proposed levels are safe to the general population. Concentrations shall be measured and calculated as the highest average that could occur over a continuous eight-hour period.

**(3) Standards for All Non-Residential Uses**

The release of airborne toxic matter (including radioactive matter) shall not exceed five percent of the maximum permissible concentration allowed an industrial worker when measured at any point beyond the lot line, either at ground level or habitable elevation, whichever is more restrictive.

**(G) Odorous Matter Standards**

**(1) Required Performance Level**

- (a)** No operation or activity shall cause or create the emission of odorous matter or vapor in amounts or quantities that exceed the levels prescribed for the zoning district in which such operation or activity is located.
- (b)** No operation or activity shall release materials capable of becoming odorous, either by bacterial decomposition or chemical reaction, that cause, or could cause, odorous matter or vapor to be generated or occur at a point distant from the source of such materials in amounts or quantities that exceed the levels prescribed for the zoning district in

which such odorous matter or vapor is generated. When the release of such materials causes, or could cause, the generation of odorous matter or vapor in a residence or business district, the amounts of quantities thereof shall not exceed the levels permitted.

**(2) Method of Measurement**

The emission of odorous matter shall be measured by the: *Standard Method for Measurement of Odor in Atmospheres (Dilution Method)* of the American Society for Testing and Measurement, ASTM International (1978) D1391-78.

**(3) Standards**

When odorous matter, or material capable of becoming odorous, is released from any operation, activity or use in an I-O district, the concentration of such odorous matter or vapor shall not exceed the odor threshold when measured beyond the lot line, either at ground level or habitable elevation.

**(H) Fire and Explosive Matter Standards**

**(1) Compliance with Division Provisions**

All operations, activities and uses shall be conducted so as to comply with the performance standards governing fire and explosion hazards prescribed in this division.

**(2) General Requirements**

**(a)** Activities involving the storage, utilization or manufacture of materials or products which decompose by detonation are permitted only in accordance with the use standards in Article IV and this section. Such materials shall include, but are not limited to: All primary explosives such as lead azide, lead styphnate, fulminates and tetracene; all high explosives such as TNT, RDK, HMX, PETN and picric acid; propellants and components thereof such as nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetyl ides, tetrazoles and ozonides; strong oxidizing agents such as perchloric acid, perchlorates, chlorates and hydrogen peroxide in concentrations greater than 35 percent; and nuclear fuels, fissionable materials and products and reactor elements such as Uranium 235 and Plutonium 239.

**(b)** Where materials or products which decompose by detonation are permitted, these materials shall be handled, stored, utilized or manufactured in accordance with the National Fire Codes published by the National Fire Protection Association.

**(3) Standards for All Uses**

**(a)** Uses involving the manufacture, storage and utilization of materials and products that decompose by detonation may be allowed only as a special permit use.

**(b)** The storage, utilization or manufacture of solid materials or products ranging from incombustible to moderate burning is permitted.

**(c)** The storage, utilization or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted, provided that such materials or products are stored, manufactured or utilized in fire-resistant and fire-protected buildings or spaces. Such materials or products may be stored outdoors, provided that such storage areas are setback at least 70 feet from all lot lines.



- (d) The storage, utilization or manufacture of flammable liquids or materials which produce flammable or explosive vapors or gases shall be permitted in accordance with the following table, except that the storage of finished products in original sealed containers of 55 gallons or less shall be unrestricted.

TABLE 78-515(H)(3)(d): TOTAL CAPACITY OF FLAMMABLE MATERIALS PERMITTED			
TYPE OF INDUSTRY	TYPE OF MATERIAL	MAXIMUM ABOVE GROUND STORAGE (GALLONS)	MAXIMUM BELOW GROUND STORAGE (GALLONS)
Industries engaged in storage for resale	Materials having a closed cup flashpoint over 187° but less than 356° F	Prohibited	100,000
	Materials having a closed cup flashpoint over 105° to and including 187° F	Prohibited	100,000
	Materials having a closed cup flashpoint less than 105° F	Prohibited	100,000
	TOTAL		300,000
Industries engaged in utilization and manufacture of flammable materials where storage is an ancillary use	Materials having a closed cup flashpoint over 187° but less than 356° F	50,000	100,000
	Materials having a closed cup flashpoint over 105° to and including 187° F	20,000	100,000
	Materials having a closed cup flashpoint less than 105° F	5,000	100,000
	TOTAL	75,000	300,000

(I) Exterior Lighting Standards

(1) Compliance With Provisions

Various sections of this Chapter address the need for site lighting to maintain adequate lighting levels on site and provide security for people and property. Development of townhouse, two-family, and multiple-family dwellings, public and institutional, commercial, and service and industrial uses may be required under other sections of this Chapter to install site lighting for these purposes. Whether required under this Chapter, or provided at the applicant's option, the following standards shall be applied to exterior lighting.

(2) Site Lighting Plan

Any development proposed within the Town shall conform to the Town's exterior lighting standards. As part of the site plan review process, information about site lighting shall be provided as required in Table 78-201(C)(8) and Section 78-202(F).

(3) ~~Standards for all Non-Residential Uses and Multi-Family Residential Uses~~

- (a) Hours of Illumination: Properties on which public and institutional uses, commercial uses, and service and industrial uses are located that are adjacent to existing residential development or vacant land in a residential zoning district have lighting that is turned off during non-operating hours, except lighting that is necessary for security or emergency purposes. Such lighting may be activated on-site by motion sensor devices.
- (b) Fixtures: Lighting is provided through the use of fixtures that are durable, yet avoid the use of tall light fixtures that unnecessarily disperse light and glare to surrounding properties.
- (c) Illumination Direction: In all residential districts, lighting of non-residential properties is directed downward. ~~Upward directed lighting is not used to illuminate properties, except for low-voltage architectural lighting.~~

(d) Maximum Lighting Height:

1. Residential property light fixtures are no more than 14 feet above grade.
2. On nonresidential properties, outdoor lighting is no greater than 15 feet in height, whether mounted on poles or walls or by other means, except:
  - a. Light fixtures in parking lots containing between 100 and 250 spaces are no more than 25 feet high; and;
  - b. Light fixtures in parking lots containing more than 250 spaces are no higher than 35 feet in height;
  - c. In any event, where visible from residential properties, fixtures do not exceed 20 feet above grade;
  - d. Wherever possible, illumination of outdoor seating areas, building entrances, and walkways is accomplished by use of ground mounted fixtures not more than four feet in height.

(e) Shielding:

1. Light fixtures in excess of 60 watts or 100 lumens use full cut-off lenses, hoods other shielding as warranted to prevent glare or spillover from the project site onto adjacent properties and roadways.
2. No ~~interior~~ light source emits light directly onto adjacent residential property.
3. No light source in a canopy structure extends downward further than the lowest edge of the canopy ceiling.
4. Awnings or canopies used for building accents over doors, windows, etc., are not internally illuminated (i.e., from underneath or behind the awning).

- (f) Maximum Light Levels: Outdoor lighting and indoor lighting visible from outside are designed and located so that the maximum illumination measured in foot candles at a vertical distance of three feet above grade at the property line do not exceed the standards in Table 78-515(I)(4)(f), Maximum Illumination Values. Cut-off lighting shall be designed to direct light downward (e.g., shoe box style). In any case, spillage of indirect light onto adjacent residential properties is 0.1 foot candles or less, or 1.0 foot candles or less for other uses, measured at the boundary line of the site.

**TABLE 78-515(I)(4)(f): MAXIMUM ILLUMINATION VALUES  
(REGARDLESS OF LIGHT TYPE)**

USE	MAXIMUM ILLUMINATION AT PROPERTY LINE (IN FOOT-CANDLES)	MAXIMUM ILLUMINATION LEVEL INSIDE LOT LINES (IN FOOT-CANDLES)
Residential;	0.5	5
Public and Institutional	2.5	10
Commercial	2.5	10
Service and Industrial/Edge of right-of-way	2.5	10
Parking Lots	1.0	5

- (g) **Uniformity Ratios:** The ratio of maximum to minimum lighting on a given property measured at ground level, does not exceed 15:1 in the residential districts; 10:1 in the business districts; and 3:1 in parking lots.
- (h) **Direction of Lighting:** No light source is directed outward toward property boundaries or adjacent rights-of-way. No light source directly illuminates facades of buildings visible from residential properties.
- (i) **Distance from Property Line:** All exterior lighting fixtures are located a minimum of 10 feet from a property line or five feet from a right-of-way line and are not located within a required perimeter buffer or streetscape unless they are located at the interior edge of the buffer or streetscape.
- (j) **Hue:** Lighting sources are color-neutral types such as non-filtered halogen or metal halide. Light types of limited spectral emission such as low-pressure sodium or mercury vapor lights, are prohibited.
- (k) **Wall-mounted Lights:** Wall-mounted lights (other than entry lights of 100 watts or less) are fully shielded luminaries (such as shoebox or can style fixtures) to direct all light downward, and to prevent the light source from being visible from any adjacent residential property or public street right-of-way.
- (l) **Floodlights and Spotlights:** Floodlights or other type of lighting attached to light poles that illuminate the site and/or building(s) are prohibited. Permitted floodlights and spotlights are selected, located, aimed, and shielded so that direct illumination is focused exclusively on a portion of the building façade or other intended site feature and away from adjoining properties or the right-of-way. On-site lighting may be used to accent architectural elements but is not used to illuminate entire portions of building(s). Such lighting is installed in a fixture that is shielded so that no portion of the light bulb extends below the bottom edge of the shield, and the main beam from the light source is not visible from adjacent properties of the adjacent right-of-way.
- (m) **Wall Pack Lights:** Wall packs on buildings may be used at entrances to a building to light unsafe areas. Such lights are not used to draw attention to the building or provide general building or site lighting. "Wall Packs" on the exterior of the building are fully shielded (true cut-off type bulb or light source not visible from off-site) to direct the light vertically downward at an angle that will limit output to prevent glare on adjacent property and be of low wattage (preferably 100 watts or lower). Wall pack lights visible from any location off the site are prohibited.
- (n) **Illumination of Outdoor Sports Fields and Performance Areas:** Lighting of outdoor sports fields and performance areas shall comply with the following standards:
1. All lighting fixtures shall be equipped with a glare control package (e.g., louvers, shields, or similar devices), and the fixtures shall be aimed so that their beams are directed and fall within the primary playing or performance area; and
  2. The hours of operation for the lighting system for any game or event shall not exceed one hour after the end of the game or event.

**(J) Electrical Interference Standards**

No operation or activity associated with any land use in any zoning district shall be conducted so as to cause any electrical disturbance or electromagnetic interference that:

- (1) Is not in conformance with the regulations of the Federal Communications Commission; or
- (2) Adversely affects at any point the operation of any equipment other than that belonging to the creator of such disturbance or interference.

**(K) Liquid and Solid Waste Standards**

No operation or activity associated with any land use in any industrial district shall be conducted so as to discharge any:

- (1) Liquid or solid waste products or materials into any ditch, stream, river, other body of water or drainage facilities; and
- (2) Toxic or nonbiodegradable products or materials into any sewer or sewerage facility, except as otherwise specifically authorized by the governmental authorities having jurisdiction over the discharge of liquid or solid waste products or materials.

**78-516 STANDARDS FOR ~~REFUSE COLLECTION AND~~ SOLID WASTE RECEPTACLES AND SCREENING ENCLOSURES****(A) Applicability**

These standards for ~~refuse collection and~~ solid waste receptacles and enclosures apply to any nonresidential development, ~~including and~~ multi-family dwellings. These standards are provided to help ensure the proper and healthful storage of ~~nonresidential~~ solid waste ~~in~~ between refuse collections. Solid waste excludes recyclables and includes all garbage, cardboard, ashes, trash, industrial wastes, swill, abandoned vehicles or parts thereof, discarded industrial appliances, manure, vegetable or animal solid and semisolid wastes, bulky wastes, other discarded materials, and construction and demolition wastes. Recyclables shall also be stored within screening enclosures. Single family residential uses shall provide for refuse collection as described in Chapter 62, Solid Waste, of the Herndon Town Code.

**(B) Standards for ~~Refuse Collection and~~ Solid Waste Receptacles and Screening Enclosures**

- (1) Any nonresidential development, ~~including or~~ multi-family dwellings, shall provide a sufficient number of approved containers for storage of solid waste to prevent overflow between times of collection, ~~and to~~ maintain the premises in accordance with the provisions of Section ~~68 62~~-5(b)(2) of the Herndon Town Code or as may be amended in the future.
- (2) Solid waste containers shall be placed either within a building in a room designed to store solid waste or in a screening enclosure. The waste bulk container and its screening enclosure shall meet the following standards:
  - (a) Comply with the provisions of ~~M~~maintenance of bulk containers in Chapter 62 of the Herndon Town Code.
  - (b) Be shown on an approved site plan or minor site plan.
  - (c) Be ~~not~~ located outside of ~~in~~ any required buffer or open space on the site.
  - (d) Have an enclosure that is large enough to accommodate the containers required to serve the uses on the property, dumpster and be
  - (e) Be placed on the lot for adequate service from the refuse collection company.
  - (f) Be the subject of an approved Building Permit for the construction of a new dumpster enclosure.
  - (g) Enclosure gates shall remain closed at all times except during service.
  - (h) The design of the enclosure structure must include:

1. ~~an opaque material limited to brick,~~ Brick or concrete block walls with brick facing. ~~;-and~~
  2. ~~a wall~~ Walls and gates that fully enclose the dumpster and ~~does~~ not exceed eight feet (8') in height.
  3. Construction in such a manner that all structural members, including braces, posts, poles and other projections, shall be on the interior side of the walls fence.
  4. Construction of the gates with commercial grade hinges, poles ~~and~~ hasps and closing latches.
  5. Gates with supporting poles of metal with a minimum diameter of at least one and five-eighths inches to support the gate.
  6. In addition to the requirements listed above in subparagraphs 1 through 5, dumpster enclosures in sectors 1, 2 or 3 of the Herndon Downtown Overlay as described in the "Herndon 2010 Comprehensive Plan" shall include roofing such that the refuse containers are completely enclosed.
    - (i) Be placed on a concrete pad with a minimum concrete depth of four inches (4").
    - (j) Have daily washing of dumpsters provided for food service establishments with a French drain in the dumpster pad.
    - (k) Have a concrete pavement extension at the dumpster pad for truck tires.
    - (l) Have bollards at the rear and sides of the dumpster location.
    - (m) Not obstruct access to ~~sanitary sewer~~ manholes. A clear zone is required for a distance of 3 ft. around the rim of any ~~sanitary sewer~~ manhole cover ~~to provide access to the sanitary line in the event of an emergency and an area for erection of equipment for safe entry into the manhole.~~
- (3) The owner of the premises benefited by a ~~bulk~~ solid waste receptacle shall ~~in each case~~ utilize and maintain in a workable and effective condition the ~~screening or~~ screening enclosure, and shall ensure that the ~~owner's~~ tenants, contractors, ~~servants,~~ agents, employees or officers accessing or servicing the ~~bulk~~ solid waste receptacle shall utilize the ~~screening or~~ screening enclosure upon each such access or service. Any person accessing or servicing a ~~bulk~~ solid waste receptacle for which screening or a screening enclosure has been provided shall replace the ~~bulk~~ solid waste receptacle behind or within the ~~screening or~~ screening enclosure immediately after access or service.

## 78-517 FENCING STANDARDS

### (A) Applicability

~~Section 78-402, Accessory Uses and Structures, Article IV, Use Regulations,~~ establishes that features such as fences, walls and retaining walls are permitted as accessory uses in all zoning districts. The provisions of this Section 78-517, *Fencing Standards*, shall apply to all construction, substantial reconstruction, or replacement of fences, retaining walls, hedges, walls not required for support of a primary or accessory structure, or similar linear barriers. In the event of any inconsistency between the provisions of this Section 78-517, *Fencing Standards*, and any screening standard in Section 78-503, *Site Landscaping*, the screening standard in Section 78-503 shall govern. A Certificate of Appropriateness may be required for certain types of fencing in certain circumstances in the Heritage Preservation Overlay District (see "Certificate of Appropriateness in the Heritage Preservation Overlay District" in Article II, *Administration*.) Similarly, approval may be required from the Architectural Review Board for certain types of fencing in certain circumstances outside the Heritage Preservation Overlay District (see Chapter 58

of the Herndon Town Code, Section 58-62, *Approval of construction, reconstructions and alterations in architectural control districts required.*)

**(B) General**

- (1) Fences are permitted within a lot or on the property line between two or more parcels of land held in private ownership and within yards.
- (2) Temporary fences for construction sites, tree protection or a similar purpose shall comply with the requirements of this chapter, the Herndon Public Facilities Manual, the approved site plan, and the Building Code adopted by the Town.
- (3) Unless approved on a site plan, no fence, wall or berm shall be installed so as to create, change, block or divert drainage flow on to or off of any other property.
- (4) If a fence is constructed on top of a wall or berm, the combined height of the fence and wall or berm shall not exceed the maximum height that would apply to a fence or wall alone.
- (5) Fences and walls shall be installed so as to minimize disturbance or damage to existing vegetation or installed plant material.
- (6) Fences shall be constructed of customary fencing materials, including solid wood, masonry, stone, brick, wrought iron, decorative metal materials, or products designed to resemble these materials. Chain link fencing is permitted only in accordance with Section 78-517(E) and Section 78-517(D)(3). Where specific materials are specified for particular types of screening or buffering fences or walls on an approved site plan, all other fence materials are prohibited.
- (7) Wherever a fence is installed, if one side of the fence appears more "finished" than the other (i.e., one side has visible support framing and the other does not), then the more "finished" side of the fence shall face the perimeter of the lot, rather than facing the interior of the lot.
- (8) Fences shall be installed to prevent obstacles to sight distance at intersections, in accordance with Section 78-509, *Visibility Clearance*.
- (9) All fences and walls shall be maintained in good repair. Any deteriorated, damaged or decayed fence materials shall be promptly repaired, and any fence or wall post or section that leans more than 20 degrees from vertical shall be promptly repaired to correct that condition.

**(C) Perimeter Fences for Development in the RTC, RM and Planned Development Districts Visible From or Abutting Public Rights-of-Way**

For purposes of this Section, "perimeter fences and walls" means any fence or wall that is not within the lot lines of a single family detached dwelling lot and that is within 20 feet of the edge of the right-of-way of a public street. Development may provide perimeter fences or walls between primary structures and the abutting street. Such fences or walls may be required to meet the screening requirements of Section 78-503, *Site Landscaping*. Whether required under this Chapter, or provided at the applicant's option, the following standards shall may be applied to perimeter fences and walls.

- (1) Landscaping  
Perimeter fences and walls that exceed two and one-half feet in height shall meet the following landscaping requirements:
  - (a) One evergreen shrub is installed for each five feet of frontage along the public right-of-way. Shrubs shall be 18 to 24 inches tall at the time of installation. Shrubs may be installed in a staggered, clustered, grouped, or linear fashion, and all plantings shall be installed on the side of the fence that faces the public right-of-way.
  - (b) One under story or ornamental tree may be substituted for every three evergreen shrubs provided that the tree meets the minimum size standards at the time of planting found in Section 78-503, *Site Landscaping*.



(c) Required landscape screening of fences or walls may be integrated into the landscaping required for streetscape landscaping, vehicular use area screening, or perimeter landscape buffers with the approval of the Zoning Administrator.

(2) Uniformity  
Perimeter fences and walls ~~shall be~~ ~~are~~ of a uniform style that meets the standards of this Section to provide visual interest in an orderly manner.

(3) Maximum Length of Unbroken Wall Plane  
The maximum length of unbroken fence or wall plane shall be 200 feet. A break in the plane of a fence or wall may be achieved by a break in the length of the wall or fence that is at least 40 feet long (measured parallel to the street), and at least two feet in depth (measured perpendicular to the street).

**(D) Height of Fences and Walls**

All fences and walls shall conform to the following height standards. In all cases, heights are measured from natural grade. If a fence, wall or hedge is constructed on top of a wall or berm, the combined height of the fence, wall or hedge and the wall or berm shall not exceed the maximum height that would apply to the fence, wall or hedge alone. When measuring the height of a fence, wall or hedge, the measurement shall allow for an average deviation of up to five percent of the allowable maximum height for the whole fence, wall, or hedge measured every four feet with no measurement exceeding five inches above the maximum allowable height. All fences, walls and hedge shall meet the visibility clearance required in Section 78-509.

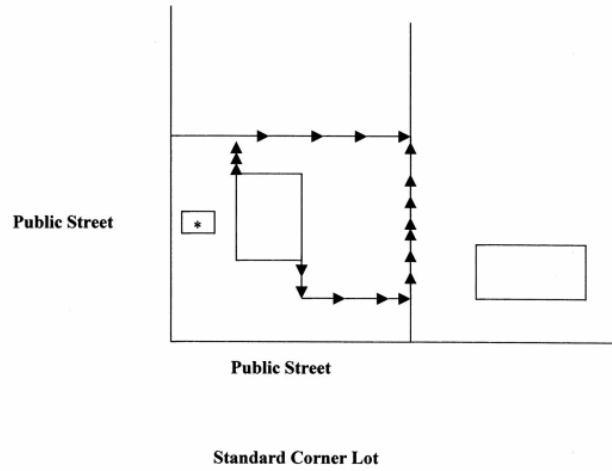
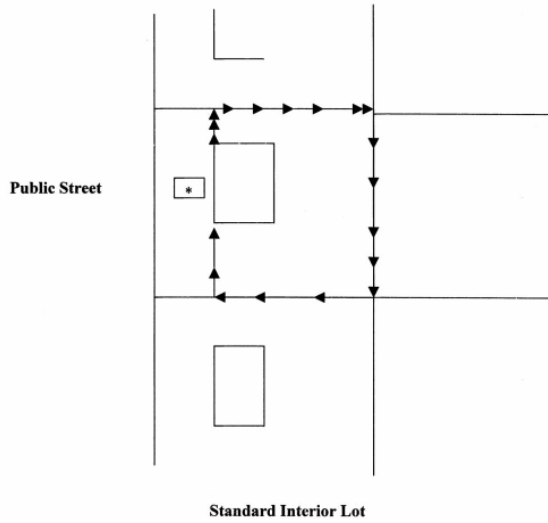
**(1) Residential Districts**

- (a) Within a required front setback, fences, walls, and hedges shall not exceed a height of four feet except as permitted below. Fence support posts shall not exceed a height of four feet five inches inclusive of finials or other decorative elements.
- (b) Within a required rear or side yard, fences, walls and hedges shall not exceed a height of seven feet. Fence support posts shall not exceed a height of seven feet five inches inclusive of finials or other decorative elements.
- (c) On corner and through lots the height of fences in functional rear yards is dependent upon the placement of primary structures on abutting properties. Fences that are within a front setback and that are located behind the architectural rear of the primary dwelling shall not exceed seven feet in height and shall not extend beyond the architectural front of a primary structure on an abutting property.
- (d) The operation of this section is illustrated on the following diagrams entitled Standard Interior Lot, Standard Corner Lot, Through Lot, Three Sided Corner Lot With Functional Rear Yard Abutting Adjacent Property, and Three Sided Corner Lot With Side Yard Abutting Adjacent Property. These diagrams are incorporated by reference.
- (e) Underground electric fences designed for control of domestic animals are permitted.

**ARTICLE V: DEVELOPMENT STANDARDS**

**Sec. 78-517 Fencing Standards  
Paragraph (D), Height of Fences and Walls**

1



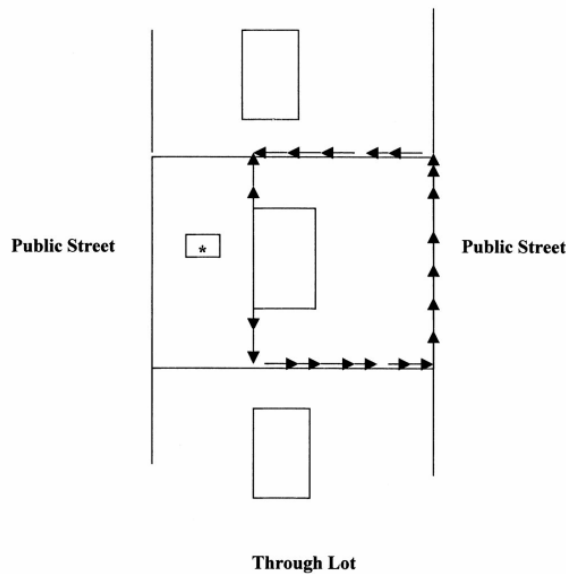
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= Functional Front Yard

3

= Functional Front Yard

4



**Diagrams for 78-517(D)(1)(d), illustrating permissible location of fences and walls on residential lots**

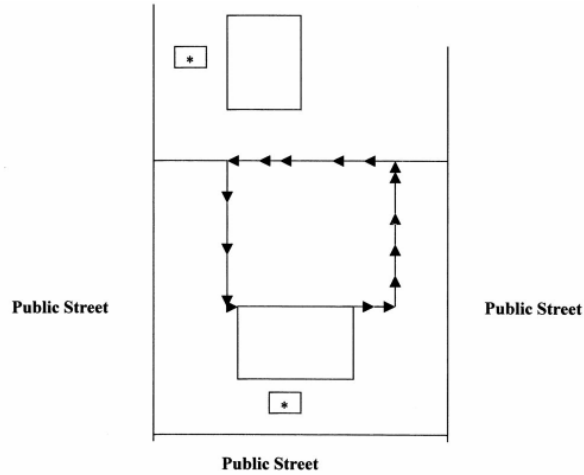
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= Functional Front Yard

6

7



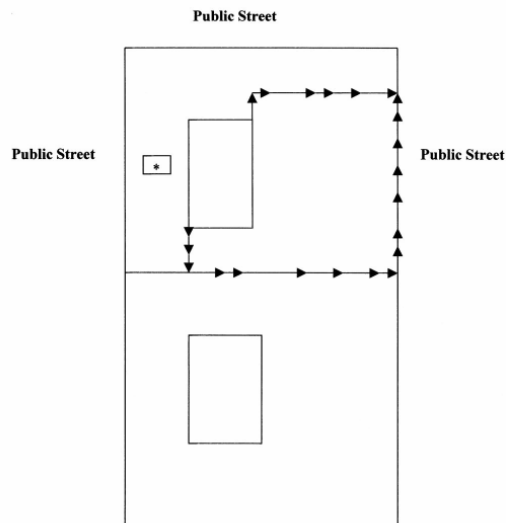


Three Sided Corner Lot  
With Functional Rear Yard Abutting Adjacent Property

= Functional Front Yard

1

2



Three Sided Corner Lot  
With Side Yard Abutting Adjacent Property

= Functional Front Yard

3

Diagrams for 78-  
517(D)(1)(d),  
illustrating permissible  
location of fences and  
walls on residential  
lots

**(2) Business Districts**

Fences and walls shall not exceed four feet in height in front setback areas, and shall not exceed a height of six feet on the remainder of front yards and seven feet in side or rear yards, unless the fence in the side or rear yard is located within 20 feet of a public right-of way, in which case it shall not exceed six feet.

**(3) Exemption for Recreational Fencing**

Customary fencing provided as a part of a permitted tennis court, ball field, or other recreational facility shall be exempt from the height restrictions of this section.

**(4) Retaining Walls****(a) Standards for retaining walls are:**

1. Retaining walls shall be constructed in accordance with the Virginia Uniform Statewide Building Code.
2. Retaining walls shall be constructed to maintain or enhance drainage patterns both on- and off-site, and shall avoid adverse effects on neighboring properties.
3. A retaining wall shall not be located closer than two feet to a boundary line;
4. When shown on the site plan or subdivision plan, information shall show the wall location and details of design.
5. In accordance with the PFM, a separate building permit shall be obtained for any retaining walls utilized in connection with site plan or subdivision development
6. Whenever the word "wall" is used in this chapter to refer to placement of signs and lighting, it shall not include "retaining wall." Signage and lighting shall not be permitted on retaining walls.

**(b) Retaining walls shall be reviewed and approved, as applicable, by:**

1. the Heritage Preservation Review Board for walls on any property within the Heritage Preservation Overlay District; or
2. the Architectural Review Board for walls on property developed with townhouses, multi-family uses or commercial uses outside of the Heritage Preservation Overlay District.

**(5) Exemption for Security Plan**

The owner or tenant of any property in a business zoning district may submit to the Zoning Administrator a site security plan requesting fences or walls taller than those permitted by this section. The Zoning Administrator may approve the site security plan, or approve it with conditions, upon a finding:

- (a)** The condition, location, or use of the property, or the history of activity in the area, indicates the property or any materials stored or used on the property are in significantly greater danger of theft or damage than the surrounding properties.
- (b)** The additional height of fences or walls indicated in the site security plan will not have a significant adverse effect on the security, functioning, appearance, or value of adjacent properties or the surrounding area as a whole.

### (E) Prohibited Fences

- Zoning Ordinance  
Herndon, Virginia  
Effective April 1, 2007  
Adopted by the Town Council February 27, 2007